PARL. PAPERS
FOR REFERENCE ONLY.

# REPORTS

FROM

# COMMITTEES:

*ELEVEN VOLUMES.*

---

*—(11.)—*

TRANSPORTATION.

---

Session

31 *January* —— 29 *July* 1856.

---

VOL. XVII.

1856.

# REPORTS FROM COMMITTEES:

## 1856.

---

*ELEVEN VOLUMES:—CONTENTS OF THE*

ELEVENTH VOLUME.

---

N. B.—*THE* Figures *at the* beginning of the line, *correspond with the* N° *at the foot of each* Report; *and the* Figures *at the* end of the line, *refer to the* MS. Paging *of the Volumes arranged for The House of Commons.*

---

TRANSPORTATION:


244. FIRST REPORT from the Select Committee on TRANSPORTATION; together with the MINUTES of EVIDENCE, and APPENDIX - p. 1

296. SECOND REPORT, with MINUTES of EVIDENCE and APPENDIX 189

355. THIRD REPORT; together with the PROCEEDINGS of the COMMITTEE, MINUTES of EVIDENCE, and APPENDIX - - - - 397

355.–I. INDEX to REPORTS from the Select Committee on TRANSPORTATION - - - - - - - - - - - - - 491

404. REPORT from the Select Committee of the HOUSE of LORDS, appointed to inquire into the Provisions and Operation of the Act 16 & 17 Vict. c. 99, intituled, "An Act to substitute, in certain cases, other Punishment in lieu of Transportation;" together with the MINUTES of EVIDENCE, APPENDIX, and INDEX - - 561


---

TRANSPORTATION:


FIRST REPORT - - - - - - - - - - - - p. 3
MINUTES OF EVIDENCE - - - - - - - - 5
APPENDIX - - - - - - - - - - - - 183

SECOND REPORT - - - - - - - - - - 191
MINUTES OF EVIDENCE - - - - - - - - 193
APPENDIX - - - - - - - - - - - - 350

THIRD REPORT - - - - - - - - - - 399
PROCEEDINGS - - - - - - - - - - 401
MINUTES OF EVIDENCE - - - - - - - - 415
APPENDIX - - - - - - - - - - - - 454
INDEX - - - - - - - - - - - - - 491

REPORT (LORDS') - - - - - - - - - - 563
MINUTES OF EVIDENCE - - - - - - - - 567
APPENDIX - - - - - - - - - - - - 690
INDEX - - - - - - - - - - - - - 691

# FIRST

# REPORT

FROM THE

## SELECT COMMITTEE

ON

# TRANSPORTATION;

*TOGETHER WITH THE*

## MINUTES OF EVIDENCE,

## AND APPENDIX.

*Ordered, by* The House of Commons, *to be Printed,*
27 *May* 1856.

*Jovis, 3° die Aprilis*, 1856.

*Ordered*, That a Select Committee be appointed to inquire into the Provisions and Operation of the Act 16 & 17 Vict. c. 99, intituled "An Act to substitute in certain Cases other Punishment in lieu of Transportation."

---

*Martis, 8° die Aprilis*, 1856.

Committee nominated of,—

| | |
|---|---|
| Mr. Baines. | Mr. Henley. |
| Sir John Pakington. | Mr. Wickham. |
| Mr. Scott. | Mr. John Wynne. |
| Mr. Wortley. | Mr. Massey. |
| Sir William Heathcote. | Mr. Becket Denison. |
| Mr. Adderley. | Mr. Deedes. |
| The Lord Advocate. | Mr. Seymour Fitzgerald. |
| Mr. Serjeant O'Brien. | |

*Ordered*, That the Committee have power to send for Persons, Papers, and Records.

*Ordered*, That Five be the Quorum of the Committee.

---

*Jovis, 10° die Aprilis*, 1856.

*Ordered*, That Mr. Scott be discharged from further attendance on the Committee, and that Lord Naas be added to thereto.

---

*Martis, 15° die Aprilis*, 1856.

*Ordered*, That the Committee do consist of sixteen Members, and that Mr. Monckton Milnes be added thereto.

*Ordered*, That Sir William Heathcote be discharged from further attendance on the Committee, and that Mr. Ker Seymer be added thereto.

---

*Jovis, 22° die Maii*, 1856.

*Ordered*, That the Committee have power to Report the Minutes of Evidence taken before them, from time to time to The House.

---

REPORT - - - - - - - - - - - - - p. iii
MINUTES OF EVIDENCE - - - - - - - - - p. 1
APPENDIX - - - - - - - - - - - - p. 179

# FIRST REPORT.

THE SELECT COMMITTEE appointed "to inquire into the Provisions and Operation of the Act 16 & 17 Vict. c. 99, intituled 'An Act to substitute in certain Cases other Punishment in lieu of Transportation,'" and who were empowered to report the MINUTES OF EVIDENCE taken before them, from time to time to The House :——

HAVE taken Evidence on the Matters to them referred, which they have agreed to report to The House.

27 *May* 1856.

## LIST OF WITNESSES.

*Jovis*, 17° *die Aprilis*, 1856.

Horatio Waddington, Esq. - - - - - - - - - p. 1

*Lunæ*, 21° *die Aprilis*, 1856.

Horatio Waddington, Esq. - - - - - - - - - p. 25
Thomas Frederick Elliot, Esq. - - - - - - - - - p. 26

*Lunæ*, 28° *die Aprilis*, 1856.

Captain Donatus O'Brien - - - - - - - - - p. 47

*Jovis*, 1° *die Maii*, 1856.

Captain Donatus O'Brien - - - - - - - - - p. 73
Captain Irwine S. Whitty - - - - - - - - - p. 78

*Lunæ*, 5° *die Maii*, 1856.

Captain Irwine S. Whitty - - - - - - - - - p. 87
Colonel Joshua Jebb, R.E., C.B. - - - - - - - - p. 92

*Jovis*, 22° *die Maii*, 1856.

Colonel Joshua Jebb, R.E., C.B. - - - - - - - - p. 114
Captain Walter Crofton - - - - - - - - - p. 138

*Lunæ*, 26° *die Maii*, 1856.

Captain Walter Crofton - - - - - - - - - - p. 144
Right Honourable Earl Grey - - - - - - - - - p. 160

# MINUTES OF EVIDENCE.

*Jovis*, 17° *die Aprilis*, 1856.

MEMBERS PRESENT.

| | |
|---|---|
| Mr. Baines. | Mr. Henley. |
| Sir John Pakington. | Mr. John Wynne. |
| Lord Naas. | Mr. Massey. |
| Mr. Wortley. | Mr. Beckett Denison. |
| Mr. Adderley. | Mr. Deedes. |
| The Lord Advocate. | Mr. Seymour Fitzgerald. |
| Mr. Serjeant O'Brien. | Mr. Monckton Milnes. |

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

*Horatio Waddington*, Esq., called in; and Examined.

*H. Waddington*, Esq.

17 April 1856.

1. *Chairman.*] I BELIEVE you fill the office of permanent Under Secretary of State for the Home Department?—I do.

2. How long have you occupied that office?—Since the year 1848.

3. Do you remember the passing of the Act 16 & 17 Vict., c. 99, in the year 1853?—I do, perfectly well.

4. I believe the preparation of that Act was a good deal under your own superintendence?—It was; in conjunction, of course, with the Lord Chancellor, and Lord Palmerston, who was then Principal Secretary of State.

5. I observe that in the Preamble of that Act, it is stated that "by reason of the difficulty of transporting offenders beyond the seas, it has become expedient to substitute, in certain cases, other punishment in lieu of transportation." Will you give the Committee some information as to the nature and extent of the difficulties of transporting offenders which had by that time come under your observation?—It is rather difficult to decide exactly at what point to begin upon such a question; but perhaps I may mention to the Committee that the first deadly blow which was struck at the system of transportation to the Australian colonies was given by a Committee of the House of Commons in 1838, generally known, I believe, as Sir William Molesworth's Committee. You are aware, I dare say, that the Report of that Committee of 1838 was extremely adverse to transportation, and recommended its discontinuance, both as a great injustice to, and a serious infliction upon the colonies, and also as a bad punishment in itself, failing to deter criminals at home, or reform them abroad; in fact, it is impossible to have a Report more decidedly adverse to it. There was at that time a very strong party in the colony opposed to transportation; not, however, at that time so strong I believe as those who were in favour of it. That Report of course gave great strength to the opponents of transportation; and though the system continued, yet the opposition increased in strength, I believe, every year. Unfortunately, in a few years preceding the year 1845, from 1840 to 1845 inclusive, the Government thought it right to send out an enormous quantity of convicts to the colony of Van Diemen's Land; there were no less than the enormous number of 17,000 convicts sent out in those six years. The consequences of that were most disastrous; the supply was infinitely greater than the demand; they could not be employed by the settlers; they were congregated in immense numbers on

*H. Waddington*, Esq.

27 April 1856.

public works. A frightful degree of crime was produced, and a proportionate degree of alarm; and the result was, that though transportation to Van Diemen's Land was suspended for two or three years, still the feeling against it gaining additional strength, leagues were formed; the local Legislatures passed resolutions against it; an Australian league was formed two or three years afterwards to put an end to it, and the consequence was, that at the end of the year 1850 transportation to New South Wales and South Australia was discontinued; the great glut had been in the year preceding 1845; the suspension was in 1846 and 1847. Transportation was again resumed to Van Diemen's Land in 1848, and continued until its entire abolition at the end of the year 1852.

6. Mr. *Adderley*.] What was the date of the league?—I think it was 1850 or 1851, I cannot exactly state. I need scarcely mention that the discovery of the gold fields of course gave additional strength to the colonists; it gave them more confidence in themselves, and increased their prosperity, and made them feel more strongly the extreme degradation and positive injustice of having the dregs of the English population regularly imposed upon them.

7. Sir *J. Pakington*.] The league did not originate in Van Diemen's Land?—I think it originated in South Australia.

8. Mr. *Henley*.] And of course the discovery of the gold fields made the great stream of free labour set there?—An immense deal of free labour set there; it gave such a sudden spring to the prosperity of the Australian Colonies generally, that it was pretty clear that from that time transportation was at an end. I may observe also that it produced an idea in this country that transportation, instead of deterring offenders, was rather an inducement to them to commit crime; that idea was, I think, rather extensively entertained in this country at one time; it was not, I believe, well founded, as the Criminal Returns show; however, it produced its effect. Then, as I said before, transportation to South Australia was discontinued at the end of 1850; the last convicts were sent there in 1850; I think 297 only were sent in that year. It continued for two years longer to Van Diemen's Land with a still increasing opposition, and at the end of 1852 it was abandoned to Van Diemen's Land also, leaving as our only outlet the little colony of Western Australia.

9. Sir *J. Pakington*.] In one or two of your recent answers you have alluded to convicts being sent to South Australia; I apprehend that you refer either to New South Wales or to Victoria?—Yes; I perceive that is the case.

10. I believe that convicts were never at any time sent to South Australia?—Upon looking at this memorandum of Mr. Elliot's, from which I principally derive my information upon this subject, with which we at the Home Office have nothing to do practically, I see that, in stating South Australia from recollection, I should have stated that the convicts were in reality sent to New South Wales; South Australia joined in the protest against the continuation of transportation, most undoubtedly.

11. *Chairman*.] I think you have arrived at the point where you have stated that in 1852 transportation ceased to Van Diemen's Land?—Yes; and I shall ask permission to correct my evidence by stating that at the end of 1850 transportation ceased to New South Wales, and at the end of 1852 it ceased to Van Diemen's Land.

12. Did that state of things create the difficulty of transporting offenders beyond the seas mentioned in the Preamble of the Act of Parliament which we are met to consider?—It did; the number which the colony of Western Australia could receive was comparatively very small.

13. Can you give the Committee information upon that point?—It is somewhat uncertain; but the notion, I believe, was, that it might be from 500 to 600 a year, or something of that sort; and that we could not in future count upon being able to transport more than 500 or 600; there might be more or less.

14. Can you inform the Committee as to the number of persons sentenced to transportation during the last few years before 1853?—Yes; I can give the Committee the number during the last five years, or during the last ten, whichever they think best, ending with the year 1852. The number of convicts sentenced to transportation in 1848 were 3,601.

15. Is this for England, Scotland, and Ireland?—This is for Great Britain only. I have purposely kept Great Britain separate from Ireland, because Irish criminal statistics are so perfectly different from those of England and Scotland, that if they were introduced into any average, they would throw it into complete confusion.

ion. Of course the Committee can have the Irish returns separately if they wish it.

16. Mr. Serjeant *O'Brien.*] I suppose the 17,000 sent to Van Diemen's Land in the five years were from Great Britain only?—The 17,000 were from Great Britain and Ireland both; those were before 1845. I am now taking Great Britain, because the description of Irish convicts is so entirely different from those of Great Britain, that the transportation has been very much more irregular from Ireland, and also the fluctuation of crime in Ireland has been so extremely great, as compared with that in England and Scotland, that if you attempted to make an average of it, you would not get a correct notion of the state of things, either in Great Britain or in Ireland; therefore I am now taking Great Britain. The number of persons sentenced to transportation in 1848 were 3,601; the number transported in the same year were 1,407 males and 490 females, making together 1,897. In 1849, the number sentenced to transportation were 3,218, and the number transported 1,620, of whom 1,243 were males, and 377 females. Then, in 1850, there were 3,176 sentenced to transportation; 2,105 males were transported, and 360 females, making altogether 2,465. In 1851, there were 3,338 sentenced to transportation, and there were transported 2,008 males and 432 females, making a total of 2,440. In 1852, which may be called the last year of the transportation system, there were 2,896 sentenced, and there were transported 2,102 males and 439 females, making together 2,541. I have had those numbers added up, and the totals make, for the five years, the number sentenced to transportation, 16,229, and the number actually transported 10,963, making a little more than two-thirds.

17. *Chairman.*] Looking to the number of persons sentenced to be transported annually, in that state of the law, and to the capacity of the only place left, namely, Western Australia, for the purpose of receiving transports, in your judgment did an absolute necessity arise for an alteration in the law?—Yes, I think so. It was considered, that when the number who could be transported bore so small a proportion to the number who would probably be sentenced to transportation if the law were not altered, it would be improper to continue passing a sentence which could be carried out in so few instances; therefore it was thought that an alteration should be made, that the number of persons sentenced to transportation should be reduced, and some other punishment substituted for it.

18. What were the principal objects of the Act of 1853; the Bill was proposed by the Home Office, was it not?—Yes. The Lord Chancellor undertook to bring it in; it was brought into the House of Lords by the Lord Chancellor, but it was in entire concert with the Home Office; the principal object was that which I have mentioned, and the mode in which it was carried out was this: the first matter, of course, was to determine upon the amount of punishment which should be substituted for the different periods of transportation. The practice had been of late years this: there had been always a certain class of convicts who could not, owing to their health, be transported; they were not fit for transportation, and their sentences were commuted by pardon after a certain period. In former times, when transportation was partially discontinued, as I have before mentioned, to Van Diemen's Land, the convicts who were kept at home might be recommended for pardons at the end of half their sentences; a seven years' convict, who had conducted himself well, would probably receive a pardon at the end of three years and a half. That had been rather varied in the beginning of 1853, and the general rule was, that a seven years' convict received a free pardon in this country, supposing that he was not in a condition to be transported, at the end of four years; therefore it was determined to substitute for seven years' transportation, a term of four years' penal servitude. Then the next substituted punishment was for sentences not exceeding 10 years; that was placed at six years as the substituted punishment; and that was founded upon the same ground of analogy to the then existing practice as to giving pardons to convicts who could not be transported. The next substituted punishment was for sentences of transportation of between 10 years and 15; that was penal servitude for not less than six, and not exceeding eight years; that was substituted upon the same analogy, and also upon the notion that that would be about a fair commutation. Of course the commuted sentences previously, in cases of long terms of transportation, were not nearly so frequent as those in the case of seven years; still there were some instances of those. The next class, I think, were terms of transportation between

*H. Waddington*, Esq.

17 April 1856.

15 years and transportation for life. In the long terms of transportation, exceeding 15 years, and short of transportation for life, the substituted punishment was penal servitude for not less than six years, and not exceeding ten. It is all set out in the Act: for transportation for life, penal servitude for life was substituted. There would be some persons whom the public safety would not allow you to turn loose upon the public at all; it would be necessary, therefore, to keep some persons in penal servitude for the whole of their lives; but it was supposed that if a person could with safety to the public be released, he might be released after 10 years' penal servitude; therefore there was no intermediate term of penal servitude between 10 years and life.

19. Can you inform the Committee of the number of convicts actually under sentence of transportation at the time when this Act was passed?—Yes; I have a return of those; this gives the number of convicts under sentence of transportation in confinement on the 30th September 1853, the Act having received the Royal Assent on the 20th August 1853. This is confined to Great Britain again, and includes those English and Scotch convicts who were at Bermuda and Gibraltar. I may mention to the Committee that Bermuda and Gibraltar are places appointed by Her Majesty for the confinement of convicts under sentence of transportation out of Great Britain; the power is given by the Transportation Act. Whether this is by a mistake of the clerk who made it out, I do not know; but this Return is headed, Number of Convicts under sentence of Transportation in Confinement on the 30th of September 1853: there may be some reason for his making it up to that day; probably it is owing to the returns being quarterly; it will not be material as to the state of things at all; the number is 9,370 males and 480 females, making a total of 9,850; that was the number which we had then to dispose of, remaining upon our hands under sentences passed in former years.

20. What proportion of those have been already disposed of?—This leads me to what the Committee will, perhaps, allow me to state, namely, the origin of what is called the ticket-of-leave system, because it was with reference to this accumulation of convicts that the system was introduced. It was supposed that it would be a very serious evil indeed to set at liberty in England this large number of convicts with free pardons, and it was thought, upon great consideration, desirable at any rate that the experiment should be tried of retaining some control over them, after they were set at liberty, and it was conceived that the best mode of doing that would be by taking a power in the Bill to give them a license to be at large in the United Kingdom, revocable at the pleasure of the Crown. It was thought that the power of revoking that license, without assigning any cause whatever, at the pure pleasure of the Crown, would hang *in terrorem* over these unfortunate persons, and would hold out the very strongest possible inducement to them to conduct themselves properly, and to abstain from any violation of the law. That power, therefore, was taken in the Act, and it was taken also for convicts under sentence of penal servitude, upon whom sentence might afterwards be passed, as it might happen that there might be cases in which it would be desirable also to let them out before the expiration of their sentence; some upon medical grounds; others for remarkably good conduct; assisting in preserving order, and other matters of that sort; grounds upon which the Crown frequently extends some mitigation of punishment to prisoners. It was thought that it might be better in sentences of penal servitude to give that mitigation in the shape of a license to be at large than in the shape of a free pardon. For that reason the power was taken in cases of penal servitude also, but not with any intention of exercising it generally in cases of penal servitude. The intention was to carry it out generally in cases of transportation, and that has been done to a very great extent. That will now lead me to the answer to the Chairman's last question, as to how many of these persons have been disposed of, and how many remain.

21. That is, of the number who were under sentence of transportation at the time when the Act passed?—Yes; of these there have been transported 1,320 males up to the present time, and no females.

22. You are speaking now of the number which you said you had upon your hands, as it were, under sentence of transportation at the time when this Act passed?—Yes.

23. Of that number 1,320 males have been since transported, and no females?—Yes.

24. Sir

24. Sir *J. Pakington.*] Were all those 1,320 men under sentence of transportation when the Act passed?—Yes, they were those whom we had upon our hands at the time when the Act passed.

25. Mr. *Henley.*] Do you mean in this country?—In this country, and at Bermuda and Gibraltar.

26. Those at Bermuda and Gibraltar you considered on your hands?—Yes; Bermuda and Gibraltar may be considered as in this country for the purposes of this investigation. I mentioned that they were appointed under the Transportation Act as places for the confinement of offenders under transportation. They were under exactly the same conditions as Portland and Dartmoor, and places in this country.

27. Mr. *B. Denison.*] Then some of those 1,320 had been sent either to Bermuda or to Gibraltar?—Yes; I do not count that as disposing of them, because they remained just as much upon our hands as those who were kept in this country, unless they were transported.

28. Mr. *J. Wynne.*] Are they ever kept for life at Bermuda or Gibraltar?—A good many die there.

29. Do they ever retain them?—No, certainly not; the rule would be that a convict under sentence of transportation for life sent to Bermuda, who could not be transported, would be sent back to England, probably after eight or ten years, or some such period. The number discharged under licenses, or tickets-of-leave, has been 4,873 males, and 279 females, making together 5,152.

30. Mr. *B. Denison.*] You mean out of that number which was on hand at the time the Act passed?—Yes; this is up to March last, when a return was made to the House of Lords upon that subject; there have been some few discharged since, I believe. We cannot exactly give the Committee the number of deaths, because we do not know the number that have taken place at Gibraltar and Bermuda; but Mr. Everest, of the Home Office, who is at the head of our Criminal Department, and who is a gentleman of great intelligence, has made an approximation to it, and he estimates the deaths at 250 males and 20 females, making 270. I am now endeavouring to give the Committee the number that have been disposed of in one way or another, in order that they may see the number remaining on our hands. I am accounting now for the 9,850 that we had upon our hands at the passing of the Act. This gives me 6,443 males, and 299 females, making a total of 6,742 disposed of. Then deducting 6,742 from 9,850, it gives 3,108. To those I must add 179, whose licenses have been revoked, and therefore who return into the body again.

31. Sir *J. Pakington.*] How many females are there amongst those?—Six; and 173 males. That gives us therefore remaining upon our hands of the old offenders 3,287 I am not, of course, saying anything of those who have been sentenced since; those 3,287 are yet to be disposed of.

32. *Chairman.*] In the numbers which you have just given us as transported, you mean, I presume, transported to Western Australia, to the only colony open to you?—Yes.

33. Can you give the Committee any information with regard to the effects of the ticket-of-leave system, so far as it has come under your observation?—I will give the Committee all the information that is in our possession; I am afraid it will not enable them to come to a very decided conclusion upon the subject; but I think they will find from these returns that the effect has been at least as good as any reasonable person could have anticipated, considering the nature of the offenders who have been discharged. The Committee are aware, no doubt, that these persons under sentence of transportation are persons who had been, most of them, two or three times previously convicted, that we knew of; they may have been convicted oftener than that, but they are almost all of them old offenders, and therefore it was highly probable, that upon being thrown back into society, a great portion of them would misconduct themselves in a very serious manner. However, I am very much inclined to hope that such has not been the case. We did not at the Home Office, for the first year, send any circular to the different prisons requiring reports to be made of every person under a license who had found his way back to prison. It was thought at first that probably it would be better to leave them to themselves; not to point them out as a distinct class, but to see how they got on; and therefore it was not until the month of February 1855 that we sent a circular calling for reports upon that subject. Therefore I have divided my returns of the ticket-of-leave men and their offences into two parts;

*H. Waddington*, Esq.

17 April 1856.

parts; the one before we sent out this circular calling for reports, and the other after the circular was sent out. The first portion therefore will embrace the time from the passing of the Act in 1853 to the 20th of February 1855, which was the date of the circular. Up to that time we only got such information as was volunteered to us, and therefore I dare say it was not so full as we should have got if we had sent out our circular before.

34. Mr. *Adderley.*] That comprises about a year and a half?—Yes; up to the 20th of February 1855, the number of convicts discharged upon license was 2,647; they were discharged gradually of course; those were all with tickets-of-leave.

35. *Chairman.*] You speak here of Great Britain?—I am speaking entirely o Great Britain; I believe there have been very few discharges by tickets-of-leave in Ireland, and that is another reason why Ireland is not included; I was informed the other day that it was only just commencing; however that may be, there is nothing like the number in Ireland that we have here. Up to the 20th of February 1855, the number of licenses revoked were only 31, of those 22 were English males, and 8 Scotch, making 30; and one female, English. The total number reported for misconduct up to that time were 56.

36. Mr. *Deedes.*] Irrespective of the 31?—No, that includes the 31; of these 56, 39 were English males, and 16 Scotch, and one English female. Therefore, of the 56 reported, the licenses of 31 were revoked, and the others were convicted and sentenced to terms which over-rode the original sentence; they were longer than the original sentence; therefore, in those cases, it was unnecessary to revoke the license of course, because the new sentence would keep them in prison longer than the revocation of the license.

37. Sir *J. Pakington.*] In those cases, is not the license still revoked?—No; we never revoke a license when the new term of imprisonment extends over the original term.

38. You would not call those cases successful instances of tickets-of-leave?—No; on the contrary, I mean to include them in the cases which have fallen back.

39. Have not the public been rather led to believe that all those cases in which the license was not revoked were successful cases?—If they have, undoubtedly it has been a mistake, because there is a very large addition to be made to the revocations for the convictions.

40. *Chairman.*] Will you proceed with your statement?—In the second period, namely, from the issuing of our circular to the middle of March 1856, which I think is the time at which the return was made to the House of Lords, taking the total number, there were released 2,505; that is from the 21st of February 1855, to the 11th of March 1856. Now, in that time, the number reported to us for misconduct was 391; of these, 148 had their licenses revoked, 21 were acquitted; which is rather curious.

41. Mr. *B. Denison.*] Acquitted of what?—Of the offence; they were tried and acquitted.

42. Lord *Naas.*] Does that refer to the whole number?—Yes.

43. Sir *J. Pakington.*] You told us that that was during the second period?—The number of persons released were gradually accumulating; I made a stop at those who had been discharged at the end of the first period, but of course those still remained as persons liable to misconduct themselves.

44. Mr. *Henley.*] The 391 applied to the whole number discharged under tickets-of-leave?—Yes, they were gradually accumulating; my reason for dividing them is, the absence of any circular calling for reports in the first period, and there being a circular in the second, from which I infer that we heard of almost all those who fell back in the second period, and we did not hear of so many of those in the first; that therefore makes a total of 447 reported for misconduct in the two periods, and 179 licenses revoked.

45. Mr. *B. Denison.*] Will you be good enough to tell us what is the number of tickets-of-leave which have been issued in the two periods?—Five thousand one hundred and fifty-two.

46. How many have been reported in the two periods?—Four hundred and forty-seven.

47. How many have been revoked?—One hundred and seventy-nine.

48. How many acquitted?—Twenty-five; four in the first period, and 21 in the second.

49. Sir *J. Pakington.*] Referring to the second period, 391 were reported?—Yes.

50. One

50. One hundred and forty-eight were revoked, and 21 were acquitted?—Yes.

51. One hundred and forty-eight and 21 make 169; what has become of the balance between 169 and 391?—The balance have been convicted, and sentenced to long periods of imprisonment; the 447, with the exception of those acquitted, will represent convicts who have fallen back.

52. Mr. *S. Fitzgerald.*] With respect to the 148 whose licenses were revoked, were all those tried again?—No; some of them were summary convictions, but they have all been convicted of something, I think with one or two exceptions. I think there have been only two cases of revocation, or three at the most, where there has not been a conviction either of felony, or under the Vagrant Act, or for an assault, or something of that kind.

53. Mr. *Adderley.*] What was the cause of the revocation in those two or three cases?—Repeated representations that they were associating with thieves.

54. Suspicious circumstances?—Yes, suspicious circumstances repeatedly stated by the police and the magistrates.

55. Sir *J. Pakington.*] You do sometimes revoke them without re-conviction?—Yes, we have done so in two or three cases.

56. And do you invariably revoke after re-conviction, whatever the charge?—Invariably, unless the sentence extends over the period of the ticket-of-leave.

57. Do you happen to know what per-centage of the whole number has been reported?—The number reported were 447, and if you deduct from that the 25 who have been acquitted, it would give 422 that have fallen back; that is, 422 out of 5,152, and to that of course there must be some addition made for those whom we have not heard of. The facts are, 422 out of 5,152.

58. Mr. *Deedes.*] In cases of acquittal you do not revoke?—We do not.

59. Mr. *Adderley.*] Is it not clear from the difference of numbers, there having been 56 reported in the first period of a year and a half, and 391 in the second period of only one year, that your returns were very imperfect in the first period?—I think so; it must be so. It is obvious that we got more reports after our circular than before, and that was the very reason why I divided the time, in order to present it as fairly to the Committee as I could.

60. Mr. Serjeant *O'Brien.*] It is, as nearly as possible, eight per cent.?—Yes, eight per cent. that we know of. The Committee quite understand that I do not put that forward as a perfect return, but as a return deficient to a certain extent undoubtedly; to what extent it is impossible absolutely to state.

61. Mr. *B. Denison.*] Then the number of licenses revoked, out of 5,152 that were granted, have amounted to about eight per cent.?—The licenses revoked and re-convictions. As I explained before, we do not revoke the licenses of those who are re-convicted.

62. It includes the two?—The number of 422 includes the two.

63. Mr. Serjeant *O'Brien.*] Have you any means of telling us whether the larger proportion of those 391, who were reported in the second period, were out of the first batch of 2,647, or out of the second batch of 2,505?—We have not adopted that calculation. It can of course be made. That shall be done.

64. *Chairman.*] Is there any further information with which you can furnish the Committee, as to the facts of the case, so far as you have observed them?—I can give no further information with respect to the ticket-of-leave men themselves, but the further information must be derived from the Criminal Statistics; and with respect to that, I am prepared to state to the Committee what result is to be drawn from the Criminal Statistics of 1854, as compared with 1853.

65. Will you give us that information?—A comparison of the crime of 1853 and 1854 would embrace, of course, the whole effect of the change of the punishment of transportation, not merely the conduct of the ticket-of-leave men, but also the effect which might be supposed to be produced by the change of the law itself. Now I am sorry to say that the returns of 1854 exhibit a considerable increase upon those of 1853.

66. Have you the figures?—Yes. Taking the committals as representing the crime committed, and not the convictions, the whole committals for indictable offences (for I confine it to indictable offences) in 1853, were 27,057. In 1854, they were 29,359, being an increase of about eight per cent., which was a very serious one no doubt, and following a decrease between 1853 and 1852. The years 1852 and 1853, the last two years of transportation, had been years in which crime had been remarkably small.

67. Sir

*H. Waddington*, Esq.

17 April 1856.

67. Sir *J. Pakington.*] To what cause do you attribute the increase in 1854?—That is a matter which I feel great difficulty in answering. The increase was of a peculiar nature; it was not in the worse sort of offences, but it was principally in simple larceny; larceny from masters, and fraud. There was also an increase in the offence of housebreaking.

68. Have you any means of judging, or have you any clear opinion whether that increase arose from real increase of crime, or whether it arose from increase of detection of crime?—I should be inclined to think that it must have arisen from the increase of crime; I am not aware that there was any change in the increase of detection between 1852, 1853, and 1854: 1852, I may mention to the Committee, had been a decrease upon 1851; 1853 had been a decrease upon 1852. In 1854 there came a sudden increase.

69. Have you any reason to think that the increase in the price of articles of consumption which followed the war may have had anything to do with that increase of crime?—It very possibly may, but I am very far from stating with any confidence that it had. Some people, I believe, are of opinion that when bread is dear, people have less money to spend in drink, which I believe is a fruitful incentive to crime, and that therefore it has rather a tendency to diminish crime.

70. Is it within your recollection that the year 1848, especially, was a very heavy year in crime?—It is perfectly.

71. Were not the years 1847 and 1848 a time when the price of articles of necessity, and especially of bread, was extremely high?—I cannot recollect that; but with respect to the crime of 1848, I can state at once that the greater part of it was attributable to political circumstances; almost the whole number of extra criminals in that year were traceable to crimes produced by the political excitement which prevailed.

72. Do you remember that the years 1842 and 1843 were remarkably heavy years in crime?—Perfectly well.

73. To what do you attribute the great increase of crime in those years?—The increase in 1842 I attribute to precisely the same circumstances as that of 1848; they were two most remarkable years; the excitement in 1842, the Committee will recollect; and the number of political prosecutions was enormous; there were special commissions issued to various parts of the kingdom, and a vast number of political offenders.

74. Do you remember what proportion the prosecutions which could be called political bore to the whole number in those years?—I cannot state exactly, but I am pretty certain that they were sufficiently numerous to account for the increase; I can give the Committee the numbers in those years if they require it, and the increase in each of them upon the preceding year.

75. Then in your judgment you do not attribute any part of the increase in the years I have referred to, to the high price of provisions?—I think not; I remember my impression was at the time that the political offences were quite sufficient to account for the increase; I may mention that in 1848 there was one cause which decreased the number, to a slight extent, at least some hundreds I believe, of those tried at the assizes and sessions, namely, the passing of a most excellent Bill in the year 1847, the Juvenile Offenders Bill, by which juvenile offenders were convicted summarily for larceny, whereas they had been formerly tried at the assizes and sessions. That transferred a considerable number of juvenile offenders from the assizes and sessions to summary convictions, and therefore the real increase in 1848 was greater than it appeared.

76. Mr. *S. Fitzgerald.*] In the number 29,359 who you say were committed for indictable offences in the year 1854, do you include those who were summarily convicted under the Juvenile Offenders Act, or who were otherwise convicted summarily?—No; we only include those committed for trial at the assizes and sessions for indictable offences; I stated that I attributed the increase of crime in 1848 to political offences. I have stated there was another cause in 1848, which, instead of making an increase, made a considerable decrease, and therefore that the political offences in that year would more than cover the apparent increase in crime. The apparent increase in 1842 was larger than in 1848 considerably, owing, no doubt, to the cause I have mentioned, the passing of the Juvenile Offenders Act.

77. Lord *Naas.*] Is there any return which will show of this number of committals in 1854, what number of persons had previously undergone either a sentence of penal servitude or a portion of a sentence of transportation?—I am afraid

afraid I am not in a situation to show how many of those had been previously convicted.

78. *Chairman.*] Do you conceive that, looking at the short period which has elapsed since the passing of the Act, there is a possibility of forming any decided opinion upon the operation of the Act?—I think not; and probably the Committee will be better able to judge, when I bring before them, as well as I can, the statistics of 1855. We have made great efforts to get them as perfect as we can: they have not yet been published; I may mention, however, before I come to 1855, that in 1854 there was also a slight increase of crime in Scotland; there was an increase in Scotland of six per cent. upon indictable offences, offences of the same description.

79. Mr. *Adderley.*] While it was eight per cent. in England?—Yes; and in Scotland also as in England, following a previous diminution. Therefore, so far, that would be a result unfavourable to the change in the law, though not of a very serious character. I may mention that in 1854 the offence of burglary was exactly stationary; it was within one of what it was in 1853, and the offence of highway robbery had slightly diminished. Therefore the grave offences which most alarm society had not increased at all.

80. Mr. *B. Denison.*] This is from a report of Mr. Redgrave?—Yes.

81. That the larger offences had decreased, though the smaller ones had rather increased?—Yes.

82. Mr. *S. Fitzgerald.*] There had been an increase in housebreaking?—Yes; burglary was stationary, and there was a diminution in highway robbery.

83. *Chairman.*] Will you proceed with any further facts which you wish to bring before us?—This return, I must observe, is confined to England and Wales, as are those which I have already given. I have only given the general result as to Scotland, and no numbers; and again, in 1855, I am confined to England and Wales. At the assize courts there were tried in 1854, 4,571; at the assize courts in 1855, 4,545.

84. Sir *J. Pakington.*] At the sessions what were the numbers?—In 1854, 14,763; in 1855, 12,957.

85. Did that apparent decrease as between 1854 and 1855 arise in the last quarter of the year 1855, after the Summary Jurisdiction Act had come into operation?—It no doubt must have been affected partly by that. I will explain to the Committee presently how far I can speak upon that part of the subject. We have unfortunately no return of the number of persons in the country who have been summarily convicted under the Criminal Justice Act; we have the number convicted in the Metropolitan Police Courts.

86. Did the decrease as between 1854 and 1855 arise in the last quarter of the year 1855, after the Summary Jurisdiction Act had come into operation?—I have not got the comparison of the last quarter.

87. *Chairman.*] There is no doubt that it can be got?—It can be got of course.

88. Mr. *B. Denison.*] You have at the Home Office the number convicted at each quarter sessions?—No doubt.

89. Sir *J. Pakington.*] Have the Home Office taken any steps to ensure receiving returns of the convictions which take place under the new Act?—They will be received in the ordinary course from the inspectors of prisons, but we have not sent any circular for that purpose; we should only get them as we do the other returns of convictions.

90. Mr. *S. Fitzgerald.*] Will you be kind enough to reconcile the figures you have given us. In the year 1854 you say that 29,359 persons were committed for indictable offences, and yet you say that in the year 1854 those tried at the assizes and at the sessions only amounted to 19,334?—I have not gone through the statement; I have only given the assizes and quarter sessions; I have yet to give you the Central Criminal Court, the Recorders' Borough Sessions, and the Middlesex Quarter Sessions, which I have put distinct from the others.

91. Will you give us the number at the Central Criminal Court?—In 1854 there were tried 1,512; and in 1855, 1,210, showing again a considerable diminution, a diminution of 20 per cent. That again would necessarily be affected in the same way by the Criminal Justice Act, because the Central Criminal Court sitting in the later months of the year, after the general assizes are held, their number would be diminished no doubt by the operation of the Criminal Justice Act at the Metropolitan Police Courts, therefore this must be only an approximate

*H. Waddington*, Esq.

27 April 1856.

approximate result. Then we come to the Middlesex Sessions. In 1854 the numbers were 3,119, in 1855, 2,389, being a diminution of 730 persons, or 23 per cent.; that again no doubt was much affected by the Criminal Justice Act.

92. Mr. *Wortley.*] The proportion tried at the Central Criminal Court would be less affected by that Act than of those tried at the sessions, would it not?—No doubt.

93. There is a small proportion of those minor offences tried there?—Certainly; accordingly, the diminution at the Central Criminal Court is somewhat less. Then we come to the Recorders' Borough Courts throughout the kingdom; the number of prisoners tried at those courts in 1854, was 5,394, and in 1855, 5,173.

94. Mr. *Adderley.*] That makes the whole number?—That makes the whole number; and I have gone through them in this way, in order that the Committee might be more able to get an approximate result of the effects of the Criminal Justice Act, because I can give the numbers convicted under the Criminal Justice Act at the Metropolitan Police Courts; those are the only numbers I can give. The totals of the numbers which I have just given the Committee are, in 1854, 29,359, and in 1855, 26,274; that makes a decrease in point of fact of 3,085 persons, or 10 per cent., which would be a most excellent result; but there are two corrections now to be made, the first is in favour of the year 1855. In both the year 1854 and the year 1855, there were winter circuits, but in the year 1855 there were 22 counties added to the winter circuits. In the year 1854, at the winter circuit, the gaol delivery was only at York and Lancaster; in 1855 it was for a great number of other counties. We have therefore made a calculation of the prisoners belonging to those counties who would, unless the change had been made, have been tried in 1856, and not in 1855. The number of those is 452 who were tried at the winter circuit of 1855, and who would in the ordinary course not have been tried in that year, but in 1856; therefore that number ought to be deducted from the committals.

95. Mr. *B. Denison.*] That ought to be added to the decrease?—Yes: therefore, adding that, it will amount to 3,537, or 12 per cent. I will now give the numbers convicted under the Criminal Justice Act, as far as we know them. The Criminal Justice Act received the Royal Assent on the 14th of August 1855.

96. *Chairman.*] And there is no other day fixed for its coming into operation?—No. The only immediate data for estimating the effect of the summary provisions of the Statute may be found in the trials at the Central Criminal Court, and at the Middlesex Sessions of the Peace, in the last three months of the year 1854, as compared with 1855. This will partly answer a question put by the Right Honourable Baronet. We can give the diminution in the last quarter of 1854 in the Central Criminal Court, and at the Middlesex Sessions. In the Central Criminal Court there were, during the last three months of 1854, tried 399. In the last three months of 1855, there were tried 314. At the Middlesex Sessions, in the last three months of 1854, there were tried 736; in the last three months of 1855, only 419; making, therefore, a very large decrease, no doubt. Then we find, from the returns of the proceedings of the police courts of the metropolis, that the number of convictions under the Act, in the year 1855, in August, were 9; in September, 96; in October, 141; in November, 143; and in December, 120.

97. Sir *J. Pakington.*] Are those in all the police courts?—Those are in all the metropolitan police courts.

98. What is the aggregate?—The aggregate is 509 convictions in the last three months of 1855.

99. Mr. *Wortley.*] Does that include the city police courts?—No, I think not.

100. Sir *J. Pakington.*] I apprehend that all those 509 cases, if the Criminal Justice Act had not passed, would have been tried at the metropolitan sessions courts?—Either at the Middlesex Sessions, or the Central Criminal Court, or the Surrey Sessions. The Surrey Sessions we have not got the returns for. Therefore that diminishes the result, no doubt, in favour of 1855. Still the Committee will, I believe, think, upon the whole, that it is a very satisfactory comparison.

101. Mr. *Wortley.*] All those convictions, under the Criminal Justice Act, which you have given us in the metropolitan districts, are convictions for felony, are they not?—Entirely; we have confined it to that.

102. *Chairman.*]

102. *Chairman.*] Do you wish to add anything to the statement which you have already made upon this subject?—Yes; I have statistics which I wish to lay before the Committee, namely, the number of persons sentenced to transportation and penal servitude, in the three years 1853, 1854, and 1855. In 1853, the number sentenced to transportation was 1,864; to penal servitude, 504; making a total of 2,368. This is in England and Wales. In 1854, transportations, 310; penal servitude, 2,108; making a total of 2,418. In 1855, transportation, 325; penal servitude, 2,048; making, therefore, a total of 2,373 in 1855, against 2,418 in 1854.

103. Mr. *B. Denison.*] Does this table include those who were transported at the additional number of assizes held in 1855, or have you made a deduction for that?—This includes the whole.

104. Would it not be necessary to deduct a certain number from that?—Certainly; in 1855 there would have to be a deduction made for those who were tried at the winter assizes, no doubt. We have not got the numbers, and therefore I am willing to take it as it stands, because it is still a decrease.

105. Perhaps you can get some approximation to that?—Certainly. I mention these returns particularly, because I do not think they can be much affected by the Criminal Justice Act.

106. Mr. *Wortley.*] The result is, that the numbers in 1855 and 1853 are as nearly as possible equal?—Yes; notwithstanding the number sentenced to transportation and penal servitude in those additional counties, which will be in favour of 1855. Therefore, upon these returns, all that I took the liberty of submitting to the Committee as my opinion was, that we have no evidence upon which we can say that the change in the law has produced any serious increase of crime; that was as far as I ventured to put it; and by that I still abide.

107. Mr. *B. Denison.*] The change in what law?—The change from transportation to penal servitude.

108. Mr. *Deedes.*] You refer to the effect of this Act of Parliament?—Exactly. I was asked my opinion upon that subject, and I have stated it, and the ground upon which it rests. I do not state it with any very great confidence, but still I am unable to find any reason which would induce me to believe that that change in the law has at present produced any serious bad result. That is my decided opinion.

109. Mr. *B. Denison.*] Is it not clear that if you make the allowance to which I have before alluded, for the number of persons who were tried at the assizes in the additional counties in 1855, who were not so tried in 1854, that number being deducted from the 2,373 would make it appear that crime in the large offences which are tried at the assizes had decreased after 1854 and 1853?—It would undoubtedly show a decrease.

110. *Chairman.*] Have you found under the new Act any great difficulty in dealing with the case of female convicts under long sentences?—Undoubtedly; that is the most serious difficulty which it has presented to us.

111. Will you describe it?—Colonel Jebb, who will be before the Committee as a witness, will state fully, and in detail, the extreme difficulties that the directors of convict prisons have met with in dealing with those unfortunate women; but the first great difficulty is this, that there are no means of employing them at hard labour in association. The Committee are aware that the discipline to which the male convicts are subjected is, first, about nine months of solitary confinement, and then associated labour upon public works; very large bodies are associated at Portland and Portsmouth, and other places; but for females nothing of that sort has yet been discovered; therefore it is necessary to keep them within the walls of the prison, and the difficulty, under those circumstances, of doing any good either to their minds or to their bodies is extreme. I will not go more fully into it, because Colonel Jebb will describe it in detail if the Committee wish to have it: the result is, that they are accumulating in very great numbers without proper means of employing them in prison, and with no means of giving them a chance of retrieving their position in society. Of course the Committee are well aware how much greater the difficulties are in the case of a female convict than in that of a male convict; unfortunately these female convicts are of the very worst description, generally the associates of practised thieves, and they almost invariably fall back into their old habits, and are returned upon our hands before long. Now, for them transportation was an unmixed good: they very frequently retrieved their position, and led a decent and respectable life. It would be of immense import-

*H. Waddington*, Esq.

17 April 1856.

ance, undoubtedly, if by either the establishment of a new penal colony, or in some other way, we could get an outlet for these unfortunate females. In Western Australia they cannot be received; it is an extremely small colony, and at present they have no means of employing them, and have declined altogether to receive them, and I am afraid there is no prospect of their being able to do so; we have made frequent applications to the Colonial Office to endeavour to get them to do so, but at present unsuccessfully.

112. Then at present there is no outlet whatever, so far as they are concerned? —None whatever.

113. Mr. *Wortley.*] At the time when transportation was abandoned to a great extent, did the old colonies object to females as much as to males, or was there any distinction?—I am unable to answer that question; but I should apprehend they did not. I should imagine that the great objection in the colonies was the congregating of immense masses of males without females; I think that the females were very often thankfully received.

114. *Chairman.*] You made a suggestion just now about establishing a new penal colony; have you any decided recommendation to make upon that subject? —No; I am not sufficiently acquainted with the state of our different colonies to be able to give any opinion upon that point. I believe that when Mr. Gladstone was Secretary to the Colonies he thought of a new penal colony in North Australia, and many other places have been mentioned. The Falkland Islands have been mentioned, and by many with, I believe, great approbation. However, if the Committee wish to go into that subject, some gentleman from the Colonial Office will be able to throw more light upon it than I can.

115. In your judgment is it desirable that a new penal colony or colonies should be established for both sexes?—It appears to me most highly desirable; supposing we should lose our present outlet for males, we should then have to retain in the country all our worst offenders, many of whom we should have to keep in prison for life, and others we should have to discharge upon the community under circumstances which would be extremely injurious to the interests of public justice, I should think. A great number of criminals are convicted of murders who are not now executed, and murders of a very serious and frightful character; burglaries with violence, and assaults with intent to commit murder, all of which are offences of a very grievous description. These persons are sentenced to transportation for life, and if we could not send them abroad, we should have ultimately to discharge them all upon this country; we could hardly treat it as a sentence of imprisonment for life, and keep them imprisoned for the rest of their days. At any rate, if we were driven to that, it would be a choice of very serious evils.

116. The *Lord Advocate.*] With respect to the female portion of the convicts, has any attempt been made to provide any remedy for the evil which you speak of in the way of employment?—About six or nine months ago Colonel Jebb got the consent of Lord Palmerston to establish a new penitentiary at Fulham for these unhappy females, in which they are kept in a sort of intermediate state before they receive tickets of leave and are sent out. The better behaved of them would be associated together, and an attempt may be made to place them under a less severe discipline than that to which they are subjected at Millbank and Brixton, which at present are the places where they are confined. When they are collected together in numbers, it seems almost impossible to observe anything like order; the ill conduct of the hardened, who are rather numerous, produces such an extremely injurious effect upon the others, that all hopes of reformation are almost impossible. But it is hoped that in this penitentiary at Fulham, to which a few are to be taken, and associated in a lighter sort of labour before they receive their tickets of leave, may be some mitigation of the present state of things; it is only an experiment.

117. It is too recent an experiment, I suppose, for any result to be arrived at?—Yes, it is hardly commenced; the prison has only just been declared a prison for the reception of female convicts.

118. Sir *J. Pakington.*] You have just stated to the Committee your opinion of the difficulty of continuing to keep all our worst class of convicts in England; is that a question to which you have given much consideration?—I have given a good deal of consideration to it.

119. I infer from what you have just stated, that your opinion inclines to the resumption of transportation?—If we could keep it exactly as it is, if we were sure that

that we should always have our present outlet to Western Australia, we might possibly be able to dispose of that class of criminals which I mentioned in that way; but my opinion most strongly tends to keeping up transportation to a certain extent, and, undoubtedly, I would much rather extend it than diminish it.

120. Am I to understand from that answer, that your judgment is in favour of resuming transportation, provided some eligible place for that purpose can be discovered?—It is, most decidedly.

121. You alluded to North Australia as one of the places which had been thought of for that purpose; have you given much consideration to the question of sending transports to North Australia?—No, I have not considered it at all; it has been so entirely a matter of colonial arrangement that I have never entered into that part of the question.

122. You have never entertained the question, how far the climate of North Australia would present an impediment to that arrangement?—No; I understood from my friend, Mr. Elliot, that Mr. Gladstone had at one time determined to establish a penal settlement there, but it was afterwards abandoned; and I mentioned it for that reason.

123. You have given some evidence on the new system adopted by the 16 & 17 Victoria, of substituting penal servitude for transportation; who arranged the sentences which are substituted for the various periods of transportation?—The Lord Chancellor, Lord Palmerston, and myself, I think, were the principal parties.

124. This scale was drawn up in part on your advice?—Yes.

125. Were any of the judges, except the Lord Chancellor, consulted upon that scale?—Not at all.

126. I understand you to say that four years of penal servitude were substituted for seven years' transportation, on account of a practice which previously existed of giving pardons in case of good conduct to persons sentenced to seven years, but kept at home at the end of four years?—Yes; it was by analogy to that practice, and, of course, considering that it was a just and equitable arrangement.

127. The practice for a very considerable number of years, I think since the year 1841, has been to send all transports who are not suffering under bodily infirmity to the colonies, has it not?—Generally speaking it has.

128. Including those sentenced to seven years' transportation?—Certainly.

129. This practice, therefore, of granting a free pardon at the end of four years has been confined firstly to those who were suffering from some infirmity, and who were unfit to go abroad?—Principally to those, of late years. There was a period during, I believe, the suspension of transportation to Van Diemen's Land, when a very considerable number were retained in this country.

130. I understand you to say that this pardon was granted at the end of four years in cases where the conduct of the prisoners had been such as to merit favourable consideration?—Yes; whose conduct was not bad; it was granted as a general rule.

131. Does it not appear to you that the very fact which you have mentioned, that this pardon was granted in the case of a seven years' sentence at the end of four years, in consequence either of bodily infirmity or of good conduct, rather tends to show that the four years' imprisonment was not considered as a full equivalent to seven years' transportation?—No, I cannot say so at all. The reason of it was, that when a prisoner was sentenced to transportation, and it could not, from some circumstances, be carried out, it was thought a fair and equitable arrangement to keep him in prison for four years.

132. Then why did you mention that this pardon at the end of four years was given in case of good conduct on the part of the prisoner; what had the good conduct to do with it?—It was a mitigation of the sentence: it was a Royal pardon; and the rule is, that the mitigation of the sentence, or a pardon, would not be granted to incorrigible or ill-conducted prisoners. The general rule was, to grant this mitigation to persons who had not forfeited their right to it by bad conduct. When I said good conduct, I did not mean exemplary conduct, but the absence of bad conduct.

133. In the case of misconduct, what would have been the treatment of a prisoner sentenced to seven years' transportation who, from bodily infirmity or other causes, was not sent abroad; in the case of his conduct not being exemplary and good?—If he misconducted himself, he would be kept a certain longer period, which

*H. Waddington*, Esq.

17 April 1856.

which would be recommended by the directors of prisons, by Colonel Jebb, and submitted to the Secretary of State. It would depend very much upon the nature and degree of his misconduct. He would be kept perhaps half a year or a year longer, or even more than that if he was perfectly incorrigible.

134. But under the new law, whatever his conduct may be, he is released at the end of four years in a case where he would have been transported for seven?—Certainly.

135. In your judgment, looking at the whole bearing of a sentence of transportation, the severance from home, the severance from family, and the feelings of families, is a sentence of four years' penal servitude a full equivalent for a sentence of seven years' transportation carried into effect?—It must be matter of opinion; in my opinion, generally speaking, it is a full equivalent. We must consider that to some persons a sentence of transportation, if carried out, is in reality, though they may not think it so themselves, a very great benefit; it has the effect of taking them away from their old connections and habits, and giving them chances of employment which they never could get by being at home.

136. But looking to the feelings of the individuals, and the feelings of their families, do you think that that is the view which is taken of a sentence of transportation?—I think the view taken of a sentence of transportation varies exceedingly, according to the character of the individual. I have known many instances, and we have instances every day, where persons who are really unfit for transportation think themselves fit, and petition to be transported, preferring it very much to remaining in prison in this country. In other cases, I have not the slightest doubt that the sentence of transportation is one which inflicts the very greatest pain, and is looked to with the greatest terror. It depends so very much upon the nature of the ties which bind the person to this country, and his attachment to his old habits, that I think it impossible to lay down a general rule; but my opinion is that, generally speaking, the sentence of transportation had more terrors than the sentence of penal servitude.

137. You think that a sentence of seven years' transportation, when passed by a judge in court, was considered a more serious sentence than the sentence of penal servitude would now be?—I think so; I think it would produce a greater sensation.

138. Under the former law, as carried out up to the period of the passing of this Act, seven years' convicts were practically kept either in separate confinement or upon public works, for a period of three or three and a half years, were they not?—About three years, I think, generally speaking.

139. And then they were sent abroad for the remaining four?—Yes.

140. Then, I apprehend, that during those three years, passed firstly in separate confinement, and secondly upon public works, the treatment of the prisoner was the same as it is now under the sentence of penal servitude?—Exactly so.

141. So that the new sentence, in fact, places one year of confinement upon public works, as against four years of transportation?—Exactly. I may mention, with reference to that point, that the impatience of confinement on the part of the prisoner increases enormously as the imprisonment goes on, and I have no doubt that the fourth year of imprisonment is much more seriously felt by the prisoner than the year and a half, or perhaps two years of previous confinement; and, I dare say, at the end of three years, if you asked many of the prisoners whether they would be transported, or remain another year upon public works, they would prefer being transported; others, no doubt, who had connections at home to whom they wished to return, would prefer, at the end of the year being released in this country. I do not think any general rule can be laid down upon that subject.

142. I observe in this scale, that in substituting penal servitude for a sentence of transportation not exceeding fifteen years, the term of penal servitude commences at a minimum of six, and that the substitution of penal servitude for a sentence of transportation which does exceed fifteen years, also commences at a minimum of six?—Yes.

143. Why was that same minimum adopted in two very different sentences with regard to transportation?—I cannot exactly say. The object was to leave a very great latitude to the judge, which has been the principle of our English law of late years.

144. Looking to the nature of the crimes which have been hitherto visited with seven years' transportation, and the severity of that sentence, do you think it would be an improvement on the present law, as regulated by this Act, if the period

period of four years' penal servitude, instead of seven years' transportation, were extended, leaving to the Crown, of course, a power of diminishing that sentence in the event of meritorious conduct?—I think if it should turn out that the ticket of leave system has been successful upon further experience, that would be a very useful change in the law, and if that were done, I should certainly propose that the penal servitude should range from five to three years. I think I would diminish it on the one hand, and raise it on the other. I think that the jump from two years' imprisonment to four years' penal servitude which our law makes is too much; I think there should be an intermediate punishment. There might be many cases which were formerly punished with seven years' transportation in which I should think that three years' penal servitude would be amply sufficient.

145. But our criminal law at present contemplates imprisonment for three years, does it not?—It does; but it is very rarely carried out; there are probably not above two such sentences in every year.

146. Do you think that it would be an improvement in the criminal law to substitute the power of three years' penal servitude for that power now standing on the statute book of three years' imprisonment?—No; I should introduce it only in cases of transportation; I would amend this Act in the following manner: instead of saying penal servitude of not less than four years, I would say penal servitude of not less than three years, and not exceeding five years.

147. But that would be the practical result?—Yes.

148. Why was it that, as this scale of penal servitude contemplates penal servitude for life, there was no period named between 10 years and life?—The reason was, I apprehend, as I think I have already mentioned to the Committee, that in some cases it is absolutely necessary, or may be absolutely necessary, to keep the prisoner in confinement during the whole of his life; the Crown, of course, would always have the power to mitigate it; but it was thought that the court should inflict the sentence of penal servitude for life, and that the Crown should have the power of mitigating it. The framers of the Act considered that in cases where it was not necessary to keep the prisoner in prison for life, 10 years' imprisonment would be absolutely sufficient; they did not wish to give any power of imprisoning for more than 10 years.

149. Have any cases yet occurred in which sentence has been passed, either immediately or by commutation of penal servitude for life?—Yes, there have been both.

150. How many?—I cannot tell you the exact number; there have been several I know.

151. Do you know where the individual sentenced to penal servitude for life has been sent?—At the present time he would be treated exactly like other criminals; the time has not arrived at present to make any distinction between those persons and persons under sentence of transportation for life.

152. And in your judgment, you do not think it desirable that this law should be modified in the way of imposing some longer sentence of penal servitude between 10 years and life?—That is my own view; but I do not wish to express a very confident opinion upon the subject.

153. As you have expressed the opinion that it would be well to revise the shorter period of penal servitude, and, instead of seven years' transportation, to give the courts the option of passing a sentence of three to five years' penal servitude, do you extend that opinion to the two periods which are substituted for 10 years' and for 15 years' transportation; would you alter the maximum in those two cases?—No; I think I should confine the change to the period substituted for seven years' transportation; I think the others are sufficiently long; I think, in a sentence of penal servitude for 10 years, should it be thought right to apply the ticket-of-leave system to it, there would be ample room for it; you might give a ticket-of-leave at the end of seven years, and release the party with the three years' additional imprisonment hanging over him, if he forfeited the condition of his ticket-of-leave.

154. The great majority of the prisoners who come before our criminal courts are very young men, are they not?—There is a very large proportion of men under 30, no doubt.

155. Is there not a very large proportion under 25?—A considerable number, certainly.

156. Having regard to the fact as you put it, that a very considerable proportion are under 30, do you think that six years' penal servitude is a full and fair

*H. Waddington, Esq.*

17 April 1856.

fair equivalent for ten years' transportation; do you think it is as severe a sentence?—Yes; I think it is a very severe sentence indeed; I think sentences of imprisonment when you get beyond a certain point increase in severity much more in reality than they do in appearance; I should think that six years' penal servitude would be a tremendous sentence; and I also think that sentences of imprisonment of that length must be quite useless with the view of reforming the criminal; if he cannot be reformed in two, or three, or four years, I do not think that any subsequent imprisonment will be of any use.

157. With respect to your evidence upon tickets-of-leave, and what you said with regard to the number of convicts under sentence when the new Act passed, I presume that the tickets-of-leave to those men who were under sentence when the Act passed, have in every case been withheld until the usual period on public works was completed?—They have been given upon the principle of three years for seven years' transportation; four years for ten years' transportation; six years for fourteen, and so on.

158. In fact, they have in every case been given at the period when, under the old law, the man would have gone abroad?—At analogous periods.

159. You have given us a good deal of very valuable information about the tickets-of-leave; may I ask you generally what is your opinion as to the result of that experiment of tickets-of-leave in this country; do you think it successful and encouraging, or not?—My present opinion is, that there is no ground for saying that it has been unsuccessful; of course, every one must see that we cannot presume to pronounce a decided opinion upon it, for many reasons. One reason is, that the fear of the withdrawal of the ticket-of-leave will diminish every year as the original sentence is running out; of course, the effect produced by three years upon public works, or four years, as it may be, may gradually wear away, and therefore I should be sorry to express a very confident opinion as to the future conduct of the ticket-of-leave men from their conduct hitherto; but hitherto, I cannot help thinking that the mere relapse into crime of 12 or even 15 per cent., or it may be even higher than that, is very small considering the nature of the offenders. These men were almost all men who had been previously convicted three or four times that we knew of; many of them much more frequently; therefore my answer to the Right Honourable Baronet's question is, that in my opinion, the experiment has been much more successful than I had any reason to expect, or than I did expect; still I cannot state any confident opinion as to the future.

160. Assuming that for the future all convicts are to be kept in this country under sentences of penal servitude, are you disposed at present, from the experience which you have had of tickets-of-leave, to apply that system to penal servitude convicts, and to discharge them before the end of their sentence with tickets-of-leave, rather than to keep them in prison until the extreme end of the sentence, and then turn them upon society quite free and unchecked?—At present I should not be prepared to do that. I should like extremely to have the experience of a few more years of the conduct of the ticket-of-leave men. But supposing that their conduct was not worse than it hitherto appears to have been, I should conceive that the practice which the Right Honourable Baronet suggests would be a very great improvement indeed. It appears to me that having some hold over these men when turned loose upon society in this country is of immense advantage; therefore, if the experiment of the ticket-of-leave men may be considered to have succeeded, I should strongly recommend lengthening the periods of penal servitude, and applying the system of tickets-of-leave to them.

161. Is there any other point which you desire now to mention to the Committee?—Yes; there is one point, namely, that, supposing our present outlet to Western Australia continues, and there is no change in the law here, the present numbers annually sentenced to transportation will not be sufficient to supply the demand of that colony; and indeed, even at the present moment we are falling short. In the present year there is a very considerable demand. That colony is applying for more convicts, and we have not at present got enough to send them. The numbers sentenced to transportation, as I have already stated, in the last two years, have been 310 in 1854, and 325 in 1855. Adding about 50 for Scotland to each of those numbers, it will give us about 360 for 1854, and 375 for 1855. Now that number is quite inadequate to the demands of Western Australia at present.

162. Mr. *Adderley*.] What is the demand?—They call for 700 at the present moment,

moment, and it is anticipated that it may be perhaps as much as 600, or more, for some years to come.

163. Sir *J. Pakington.*] Am I to understand you that the colony of Western Australia, for purposes of labour, is now desirous of receiving convicts to the extent of 600 or 700 a year?—At least that; in the present year it requires more; but I am supposing that that will not continue.

164. I presume, after that statement, the whole of these numbers which you have given to us as having been sentenced to transportation in each of the years 1854 and 1855 have been sent abroad to Western Australia?—They have. In 1853 there were sent to Western Australia 600; in 1854 there were sent 280; and in 1855, 485.

165. Why was it that in the year 1853, out of 1,864 persons sentenced to transportation, you sent so few to Western Australia?—I presume that the demand at that time was not greater; we should have been extremely happy to have sent more. The Right Honourable Baronet is aware that we only send convicts when they are asked for from the Colonial Office, and the Colonial Office is the sole judge of whether the colony is in a situation to bear them or not; therefore I cannot answer the question why there were not more sent.

166. But all who are now sentenced to transportation are sent there after the usual period of labour on public works at home?—Yes.

167. Is it considered that Her Majesty's Government have under this new Act the power of sending abroad to Western Australia any convicts sentenced to penal servitude for the longer period substituted for 15 years' transportation?—That is a question of considerable difficulty, which is now before the law officers of the Crown. The Act is worded in very large terms, which would appear at first sight to give that power, but it has been doubted whether they would give a power in the colony of dealing with them exactly as persons under sentence of transportation were dealt with; therefore we have thought it right to take the opinion of the law officers of the Crown upon that subject, and have not yet got their answer.

168. Is there any doubt felt in the opposite direction, that the Government have the power, supposing they think it desirable, of retaining in penal servitude here for equal periods those who are sentenced to transportation?—No, there is no doubt about that at all; the power exists; it would not be exercised, of course, if it could be avoided. In that respect the convicts under sentence of transportation are precisely as they were before; they might be detained during the whole period of their sentence if it were thought right, but of course it would very seldom be thought right to do so. I may state that of the small numbers I have mentioned, some were females who could not be transported; some of the males were, of course, unfit for transportation; therefore the present number, supposing it not to increase either by any change of the law, or from some other circumstances, will be perfectly inadequate to supply the wants of the colony.

169. Do you know when these representations from Western Australia were received?—Very lately; it is about a month since we had the application for 700 convicts.

170. Do you know whether that was the first application of the kind from Western Australia?—I cannot state that positively.

171. Do you know whether any statement has been made, in this communication from Western Australia, as to the extent to which that demand is likely to be a permanent one?—I had a conversation with Mr. Labouchere upon the subject, from which I certainly gathered from him that he considered that it would be so. Possibly upon that subject it will be better for me to refer the Committee to my colleague at the Colonial Office.

172. It is not within your knowledge, I presume, whether similar demands have been made from any other colonies lately?—I think I can state that no other colony has made such a demand; certainly none that I have heard of. A suggestion has occurred to me with reference to this question, as to how we are to supply the additional numbers required for the colony, that, supposing the demand to continue, it might not be unwise to consider whether transportation for 10 years should not be re-enacted. We certainly shall never be able, if we retain only transportation for these long periods, to supply this demand from convicts under that sentence.

173. Mr. *Wortley.*] From your experience, are you of opinion that there is a large class of confirmed criminals in whom all hope of reformation is delusive?—

*H. Waddington*, Esq.

17 April 1856.

I am afraid that there is such a class; I hope it is not very large, but it exists beyond all doubt.

174. Under the severer code which existed in this country formerly, a large number of those persons were withdrawn from society by the punishment of death?—Certainly that was so.

175. Has it ever been a matter of consideration with the Government whether it would not be possible to devise at home, or in the immediate neighbourhood of home, in some of the islands, a place of detention where, consistently with the preservation of health, that class might be confined for life?—The question has been undoubtedly mooted, and more than once; but I do not think it has been very seriously brought under the consideration of the Government; I have never been a party to any discussions or deliberations upon that subject.

176. Is it not found that under the strict discipline of our prisons the human frame and understanding will not bear confinement beyond a certain period?—It will not bear solitary confinement beyond a certain period, certainly.

177. Nor strict confinement?—Nor strict confinement. I suppose that the period of associated labour in the open air might be prolonged to any length.

178. Is it not, on the other hand, found that many criminals who have been confined as lunatics are to a great extent cured of their lunacy, and become in good bodily health, and live to a very old age, in confinement?—There are many such cases, no doubt. There is a certain character of mind in which confinement produces a depression, which very often leads to delusions, and ultimately to confirmed lunacy.

179. Do you see any reason why, with respect to that class to which I refer, it should not be attempted to subject them, in the first instance, to the severe punishment of penal servitude, and then, during the remainder of their lives, that they should only be subject to such control, in some place of seclusion and healthy confinement, as would ensure their not escaping?—It would be a very benevolent arrangement, if it could be done; how far it is exactly practicable I do not know. The French we know have had a totally different system; they have made their confinements for life as severely penal as they possibly could.

180. The great alarm, whether well founded or not, which has been raised by the present system of tickets-of-leave, arises from the fear of that class of persons being turned upon society, does it not?—That is so, no doubt.

181. They being turned upon society necessarily within the limits of this country, whereas in former times there was the chance of their remaining abroad?—Certainly; the impression is, that there are a very large number of them who are in no way reclaimed by discipline, and that those persons are again taking to crime and joining with their old associates, thus ultimately forming an immense number of criminals whom it will be impossible to keep under any control.

182. On the other hand, with those classes of criminals who are not hopeless, transportation affords the best hope of redeeming their character and reclaiming their mind?—By far the best.

183. That if the worst characters were retained here for life, instead of being, as they are under the present system, transported for a period of 10 or 15 years, it would be possible, even with the present outlets which we have, to send those persons abroad in whom there is a hope of reformation, would it not?—It might be done, certainly; but that is regarding transportation in a view which has not been generally taken of it. The great object of transportation, no doubt, has been to relieve this country of the worst offenders; no doubt it is also extremely beneficial to all offenders, whether the worst or the least depraved; but I should think that the plan of keeping the worst offenders here, and imprisoning them for life, would not be one which would be likely to meet with the approbation of the public. I think there would be a great feeling against long imprisonment.

184. It is done in almost all other countries, I believe?—It is, I know; we have generally looked upon it with very great dislike.

185. Has not that feeling arisen very much from the belief that you cannot inflict close confinement without injury to the health?—Yes, I dare say that is so.

186. Then if the confinement after a certain period were of a mitigated character, only sufficient for security, might not that feeling be also mitigated to some

some extent?—Still it is a very frightful punishment under any circumstances, inflicting civil death upon a man without the slightest hope; it seems to be the great objection to that sort of punishment, that it does not give the slightest hope to a man; it destroys every feeling which can render life in any respect desirable, or even tolerable.

187. Then if I collect your opinion, it is rather that public opinion would not bear a punishment of that sort?—I confess it is rather so.

188. Mr. *Massey.*] Was not the congregation of convicts in penal settlements productive of very evil results?—I believe the great congregation of convicts at Norfolk Island, and even in Van Diemen's Land itself, was such as to produce frightful results.

189. The dispersion of them by means of tickets-of-leave through the colonies was, on the whole, a successful experiment, was it not?—I have no doubt of it; as long as there were settlers who would employ them, the greater the number of convicts the better; it was only when they could get no employment, and were congregated in large masses, that they became such a nuisance.

190. Then may I infer, that if it were possible now to find a settlement in which these convicts might be congregated together, you would consider it a desirable substitute for the ticket-of-leave system, a novel experiment which has been tried in this country?—I should be very sorry that all the evils which are reported to have taken place in Norfolk Island should be repeated anywhere. I am strongly opposed to forming such an institution as that, certainly. My notion of a penal colony is, that it must be one which is created. I do not think that you would get any established colony now which would be disposed to take our convicts; that is out of the question. Therefore, what occurred to my mind was, the creation of a new penal colony, in the same manner as the Australian colonies were originally created. They were created as penal settlements.

191. Mr. *Adderley.*] I do not think you stated the period at which the last kind of transportation began, namely, the three several stages?—That I think was in 1848. When transportation was recommenced in Van Diemen's Land, the system was remodelled by Lord Grey and Sir George Grey, and I think that was the time when the present system was commenced, namely, solitary confinement and hard labour on public works previous to being sent abroad.

192. The old system had ceased after the Report of the Committee of 1838?—I think so.

193. What was generally the practice of transportation between those two periods of 1838 and 1848; how was the sentence of transportation carried out in that interval?—I would rather refer you to Colonel Jebb upon that. I think there was a plan of Lord Derby's which was tried in Van Diemen's Land, by which the convicts were collected in a sort of penal establishment in large numbers until they could get employment, which they sometimes succeeded in doing, and sometimes not. I am afraid that did not succeed; but no doubt Colonel Jebb, or some gentleman from the Colonial Office, can give you the exact minutiæ of it.

194. *Chairman.*] You stated that you came into office in 1848?—Yes.

195. Therefore you are not personally acquainted with what took place before that time?—No.

196. Mr. *Adderley.*] The mode of carrying out the transportation varied so materially between the years 1848 and 1853, that it was a very different sentence practically at the different periods of that time?—Quite so.

197. Can you state more clearly how it happens that the number which is represented in your first table as having been actually transported in the year 1848, is only 50 per cent. of those sentenced to transportation, while in the year 1852, the last year before the passing of this Act, nearly the whole 100 per cent. were transported?—I think in 1848 transportation was only very partially commenced. It had been discontinued altogether, I think, in 1846 and 1847, and I think it was only partially recommenced in 1848. I think I could give you the numbers.

198. In the last period, looking to the practical mode of carrying into effect the sentence of transportation, at the time when this new punishment was substituted for it, the actual transportation from this country was a mode of sending the convict, after punishment completed, to another country, rather than a part of the penal sentence?—Certainly; the most penal part of transportation then was the separation.

*H. Waddington*, Esq.

17 April 1856.

199. But the penal part of the whole sentence was ended, and was practically completed at home, before the convict was sent to a colony?—Certainly. If he was sent out with a ticket of leave, the theory was, that he would immediately get into service.

200. The portion of the sentence which ended in exit from England was looked upon as the only penal part of the sentence?—Except so far as it separated him from his native country; and when the sentence was over he was not brought back, but would have to find his own way back, if he could do so.

201. When you recommend, if possible, the resumption of transportation, is it that last species of transportation which you recommend to be resumed in preference to the former?—I should recommend it to be resumed, or rather to be extended, as it is now. I believe the present system, in preparing the transports for tickets-of-leave abroad, is a very good one. I fancy it has had very great success. That there has been a marked improvement in the colonies is admitted, even by those most opposed to transportation. The persons who have been sent out since 1848, and particularly of late years, are quite a different class of human beings from those who were sent out under the old system. Therefore, if the system could be extended, so far as my opinion goes, I should recommend that it should be carried out as it is now.

202. The kind of transportation which you would seek to resume would be with the object of affording a man who had completed his sentence here the means of earning a livelihood in a new country rather than with the object of carrying out a penal sentence with actual surveillance and restraint over the man in the colony?—Certainly; he would be subject to restraint, of course, in the colony by the ticket-of-leave being revoked if he misconducted himself there; but the great object would be, in the first place, to get rid of him ourselves, and in the second place, to give him the opportunity, if so disposed, of becoming a decent member of society.

203. I conclude that in all your recommendations in approbation of transportation, you are looking simply to the interests of this country and of the convicts themselves?—Yes; I am very far indeed from supposing that we could reasonably call upon any established colony to take them against their will.

204. Are you of opinion that the sort of criminals whom we should seek to send out are the worst?—I am.

205. In fact, the two classes whom you seek to remove out of the country are, in the first place, female criminals, and, in the second place, the worst class of male convicts?—Decidedly.

206. Are you aware whether Western Australia, in seeking for convicts, has expressed any opinion as to the kind of convicts who ought to go out there, or whom it wishes to receive?—I have not heard any opinion expressed as to that, except that they have expressed a very strong desire to have able-bodied men and skilled labourers, artisans if possible, as distinguished from agricultural labourers; there is a very great demand for those.

207. In the last practical mode of carrying out the sentence of transportation, did it become the general practice to give pardons at the end of four years, and was any longer detention an exception?—It was; that was in the case of a sentence for seven years.

208. Immediately preceding the passing of the Act of 1853, in the great majority of instances, were those prisoners who were sentenced to seven years' transportation released from detention at the end of four years, and sent abroad, with the exception of those who were too weak?—The majority of those under sentence of seven years were not kept here for four years; I think not more than three. When Lord Palmerston was Secretary of State, he directed the period of solitary confinement to be diminished from a year to nine months, and that had the effect of abridging by three months the detention in this country; therefore I think at last the detention hardly amounted to more than three years.

209. Under what terms did the convicts generally go abroad?—Under tickets-of-leave. It was the theory that after a detention on public works, they should go abroad with tickets-of-leave. There have been cases, I believe, where there was not an immediate demand for them, and therefore the giving of tickets-of-leave has been suspended, and it has been left to the governor of the colony when the demand arose.

210. Has not there been some confusion created in the public mind by a confused use of the terms "ticket-of-leave," and "license to be at large"?—Yes.

211. The

211. The ticket-of-leave, under which a man having been confined 3 ½ years was sent abroad, was a very different thing in its effects from the licence to be at large, which is provided for in the Act of 1853?—Yes, quite different, undoubtedly.

212. How far was a man short of being at liberty who went to a colony at the end of 3 ½ years with a ticket-of-leave?—His position was this: Supposing he had a ticket-of-leave granted to him, he was then at liberty to engage himself to any master, and if he misconducted himself, he was liable to have his ticket-of-leave revoked, and to be placed upon public works, or treated in any other way that theGovernment thought proper. The general practice was, that after he had conducted himself with a ticket-of-leave well for perhaps two years, he received a conditional pardon, which put him in a much better situation.

213. Do you conceive, practically, that there would be much use in a licence to be at large in the way of keeping up surveillance and control over a man in this country?—It has not been used at present for the purpose of keeping up a surveillance, but it might of course be used for that purpose, because the terms of the Act give the power to impose any condition the Crown thinks proper; therefore the Crown might impose the conditions which are imposed in France of the surveillance of the police, and it might impose the condition upon the convict of going to a certain place, and presenting himself once a week, or once a month, before a magistrate. It might be used in that way undoubtedly, but it has not been so.

214. Do you believe that, practically, in this country it could be carried out?—I think it might to a certain extent, but I should be extremely unwilling to recommend it. I think the great good of the system is, that it puts the man in the first instance in the condition of a man who has served out his sentence; he may go where he likes, and engage himself where he pleases; he has full notice of the consequences of misconduct, and if he does not choose to avail himself of the leniency of the Crown, it is his own fault; there is every motive for him to do so.

215. By the Act of 1853, the Crown has the right to give him a licence to be at large at any period of time; it may be after a week?—Certainly. In cases where life has been endangered by the confinement, the licence has been given almost immediately afterwards.

216. As a general rule, as a reward for good conduct, in your view, what portion of the sentence ought to have expired before the licence to be at large is given?—I think that the terms acted upon at present are as proper as any that I can suggest; it is not as a reward for any remarkably good conduct; it is a reward for the absence of misconduct; I think that a seven years' transport, who does not misconduct himself, might be fairly entitled to a licence to be at large at the end of three years, that being the time when he would be transported with a ticket-of-leave.

217. Take the corresponding period of four years' penal servitude, how much of that do you think should have expired before a licence to be at large is given?—At present we do not propose to give licences to persons under penal servitude at all; we consider that being released at the end of four years and becoming a perfectly free man is about equivalent to being released at the end of three years with the revocation of the licence hanging over him. A licensed man is in a very awkward position in many respects; in the first place, he is still under a sentence of felony; he cannot possess any property; any property that he may get belongs to the Crown; so that he is by no means in a good situation when he receives his licence; whereas a man with a sentence of four years' penal servitude, when he has gone through his sentence, is a perfectly free man, and may acquire property, and do what he likes.

218. What is the practice in discharging a man with a licence to be at large now; is he sent to any particular place?—No, he is never sent to any particular place; the general rule in those cases is to give him a licence to be at large any where within the United Kingdom, leaving it entirely to his own choice to go where he pleases; in some instances, men of very bad character, who have been supposed to be still in connexion with their old associates, have been restricted from going to certain places; we have restricted some notorious London thieves from the metropolitan district, and so in two or three other cases; we have also restricted some in the provinces from going back to their own neighbourhoods.

219. Has there been any change in the practice in that particular?—Yes, there has been a change; that restriction was not introduced until about three months ago.

*H. Waddington*, Esq.

17 April 1856.

220. That is a change which has not been tested by experience?—Yes. I am by no means certain that it is a beneficial change myself. I am rather inclined to think that, upon the whole, it is better to give them an unlimited range.

221. Mr. Serjeant *O'Brien.*] Are you able to give the Committee a similar return, as regards Ireland, to what you have given as regards Great Britain?—No, I am not. The Lord Lieutenant of Ireland has mentioned that he thinks it desirable that the whole system in Ireland should be brought before this Committee, and the Chairman of the Board of Directors will come over and give evidence upon this subject. The management of the convicts in Ireland is left entirely to the Irish Government.

222. Then you cannot tell us the number as respects Ireland?—I can give you the returns of the numbers sentenced, and also of the numbers transported.

223. You have given us returns as to England for five years, namely, 1848, 1849, 1850, 1851, and 1852?—Yes.

224. Can you give us the corresponding returns for Ireland?—Yes. The number sentenced to transportation in Ireland in 1848 were 2,729, the number actually transportrd 804. In 1849 there were sentenced to transportation 3,073, and actually transported 642. In 1850 there were sentenced to transportation 1,858, and actually transported 588. In 1851 there were sentenced to transportation 1,978, and actually transported 310. In 1852 there were sentenced to transportation 1,411, and actually transported 570.

225. How many were sentenced in 1853 to transportation, and how many to penal servitude in Ireland?—There were 973 sentenced to transportation. I have not got those sentenced to penal servitude in Ireland.

226. Are you able to suggest any cause for the very large number in Ireland during the years 1848 and 1849; do you recollect that those were the years after the distress from the famine?—Yes; I know that the effects of the famine in Ireland lasted a great many years afterwards.

227. There were sheep-stealing cases?—Yes, a great number.

228. Would that at all account for the very large number of criminals during those years?—Yes, to a very great extent. The diminution of crime in Ireland since 1848 has been something quite unparalleled, I believe, in the history of any country; the reduction has been enormous.

229. Can you account at all for the small proportion which those who were actually transported bear to the number who were sentenced?—I am afraid I can. The truth was, that there was very little demand for the Irish convicts; they were of a very inferior description to the English, and were not found so available. That has been a subject of very frequent complaint; it is mentioned in the last return of the Irish convict prisons.

230. I suppose you cannot give the number of those whose sentences were commuted?—I cannot. It is entirely in the hands of the Irish Government; we never interfere with the commutation of sentences in Irish cases.

231. Mr. *Wortley.*] Did I understand rightly, that according to the present determination of the Government, it is their intention, in all cases of sentences of four years' penal servitude, to detain the prisoners for the whole time?—Yes, as a general rule, certainly.

232. Supposing there is no exception as to health or other unusual circumstances?—Yes; a bad accident on public works is always considered to entitle a man to mitigation; sometimes valuable information given to the Government is a ground of mitigation.

233. I know that a considerable embarrassment sometimes occurs in the minds of judges from not knowing what the actual effect of their sentences is; have you any objection to state the actual course of the Government with respect to prisoners who are respectively sentenced to eight, six, or four years' penal servitude, which are the common sentences of penal servitude?—With respect to four years it is clear; they would be treated as criminals formerly were; they would be kept nine months in solitary confinement, and the rest of the period on public works either in England, or at Bermuda, or Gibraltar; but with respect to longer periods, no doubt, for the first four years, they would also be kept in the same way, and I suppose they must be continued in the same way. None of those cases have arisen at present, and therefore the question of making any alteration in the mode of treating them after the four years has not arisen, and has not been considered.

234. Do you think that, to hardened criminals, such as that class which I have

referred to before, a ticket-of-leave is really any boon at all?—I do not know what to say to that; that will depend very much upon what impression their confinement has made upon them, and how far they are influenced by the obvious inducement which they have to conduct themselves well.

235. Are not they so marked, and well known, and pursued by the police, that it is impossible for them to obtain respectable employment?—It is very difficult, no doubt, and that is one of the very strong reasons for wishing to continue the system of transportation. Very often, even if men wish to reform, they have not the same chance that a person not so notorious a criminal would have.

236. Does not it very often end in this, that they are so far influenced by their punishment that they are more cautious of committing crime themselves, but that they take to teaching others?—That would be the case with some who fell back, no doubt; but I am inclined to hope that generally it may produce better effects than that. The fear of revocation may restrain them from committing any crime at all. It is not merely an indictable offence which occasions a revocation, but any offence, even an offence against the Vagrant Act, which may be nothing more than their being seen with a person in the street under suspicious circumstances.

237. Lord *Naas*.] What were the two or three instances in which you revoked the licence without the proof of some offence?—One was where a man in Scotland beyond all doubt had committed an offence, but could not be put upon trial from the death of a witness; some case of that sort where there was no doubt of the committal of an offence.

238. Mr. *B. Denison*.] Do you happen to remember whether the objection of the colonies to receive these convicts arose from the bad conduct of the convicts themselves or otherwise?—It arose from a great variety of circumstances mixed together; partly no doubt from the feeling of degradation, partly from the bad conduct of the convicts about the year 1845, and very much from the increasing prosperity of the colonists, by whom it was felt as a great degradation, of course.

239. If the ticket-of-leave system appears from experience to work tolerably well in England, in your opinion, is it not likely that the opposition to receiving the convicts in the colonies would subside?—No; I do not think it would affect the colonies at all. There is a very great difference between making the best you can of your own convicts, and receiving large quantities from another quarter.

240. Mr. *Adderley*.] Supposing the Government make up their mind to make no further use of licences to be at large, will not the sentences which have already been passed under this Act be very much aggravated by such a resolution on the part of the Government?—At present the Government have no intention of applying licences to cases of penal servitude, except in exceptional cases; therefore it would make no difference in cases of penal servitude. With respect to cases of transportation, it would be the greatest possible hardship if the system of licences were revoked, and nothing similar substituted for it. I presume that if the system of licences were discontinued, persons under sentence of transportation who could not be transported, would, as before, be released in due time upon a free pardon.

241. Have not the judges stated, at the time of passing sentence, that the prisoners might, as an encouragement to good conduct, receive licences?—Some have; it was a mistake, undoubtedly; it has not been frequent. There have been some such cases, I believe, and it has excited hopes, no doubt, in the convict to whom it has been addressed.

242. Have any sentences been mitigated since?—A great many sentences have been mitigated, not owing to representations held out to the convict, but owing to a mistake on the part of a learned Recorder; a natural mistake, for which I am sure I do not blame him at all; he passed very extreme sentences of penal servitude in many cases, under the impression that the prisoners would have tickets-of-leave, and upon finding that such was not the case, he very properly wrote to Sir George Grey, to beg that the sentences might be mitigated, and that has been done; but those were entirely exceptional cases, owing to a misapprehension of the learned judge.

243. Lord *Naas*.] Have the Home Office made any effort to follow these ticket-of-leave men, and to find out their course of life generally?—None at all; it was thought far better to give no directions whatever to the police upon the subject, but to leave them precisely in the situation of men who had served out the whole period of their sentence.

244. Do you think it would not be possible, without subjecting them to a certain amount of surveillance, which would be objectionable, to find out what

*H. Waddington*, Esq.

17 April 1856.

was their course of life?—It would not be very easy, I think; we could only do it through the means of the police, and of course where the watching of the police is required, that is, to a certain extent, a surveillance, which is observed by other persons, and which makes the person watched a marked man. We have received a great deal of voluntary information upon the subject, of course, from the heads of the police of different places, not only of men who had misconducted themselves, but of men who were likely to do so.

245. Have you had any information of a more satisfactory character from the police that these men are going on well?—Colonel Jebb has had the information upon that subject. They write generally to the chaplains. There is a great deal of correspondence with these men after they are released, and I believe Colonel Jebb will be able to give the Committee a good deal of information upon that subject.

246. Then the chaplains of the Government prisons have been in the habit of keeping up some communication with them?—Yes, they have.

247. Mr. *Adderley*.] Do you perceive no danger of an arbitrary and almost tyrannical treatment in the discretionary power of revoking licences?—It is a very large power, I must admit. Like all other arbitrary powers, it may be abused, certainly. I hope it will never be abused. It is necessary to exercise the power very strictly indeed, for the protection of the public. If it were not so, the whole advantage of the licence would be at an end; but I quite agree that it is a power of an arbitrary description.

248. *Chairman*.] You stated, in answer to the Right Honourable Baronet, that in your opinion the present Act might be improved in one particular; with regard to the minimum period of penal servitude, you suggested three years, I think, instead of four?—Yes; I rather qualified that opinion; I said that if it was thought that the system of granting licences to be at large had not turned out a failure, if it was thought to be successful, I then considered that it might be extended to cases of penal servitude, and then I should recommend that the sentence of penal servitude should be changed, and that it should be not exceeding five years, and not less than three, which, I think, would be an improvement.

249. Is there any other point in which, from your observation and experience, you would suggest to this Committee that the Act is capable of improvement?—It has struck me that if the sentences of transportation which are now passed should not become larger in number than they are at present, and if we should retain our outlet to Western Australia, it will be necessary to make some change in the law, in order to secure a sufficient number of convicts under sentence of transportation; I think that if it were ascertained that that was necessary, the only way to do it would be to return to transportation for 10 years; that would give us an additional number of convicts under sentence of transportation of from 800 to 1,000 every year; say 1,000; then taking away from that number one-fifth for the females who could not be sent to Western Australia, that would leave 800; and taking away from that again one-third unfit for transportation, it would just about give us the number we want, supposing that there is no other change in the law. Therefore I confess that I think it would be a matter for the consideration of the Committee whether, under present circumstances, we might not be in a condition to return to transportation for 10 years.

250. Have you any other suggestion to make with regard to the subject of our inquiry?—No, there is no other suggestion which I have at present to make.

*Lunæ*, 21° *die Aprilis*, 1856.

MEMBERS PRESENT.

| | |
|---|---|
| Mr. Baines. | Mr. Massey. |
| Sir John Pakington. | Mr. Beckett Denison. |
| Lord Naas. | Mr. Deedes. |
| Mr. Adderley. | Mr. Seymour Fitzgerald. |
| Mr. Wickham. | Mr Monckton Milnes. |
| Mr. John Wynne. | |

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

*Horatio Waddington*, Esq., called in; and further Examined.

*H. Waddington, Esq.*

21 April 1856.

251. *Chairman.*] HAVE you with you a comparative statement of the number of persons sentenced to transportation and penal servitude in the years 1853, 1854, and 1855?—Yes; I had the honour to hand in to the Committee on Thursday a statement of the actual numbers, which is now in evidence, and it was then suggested by the Honourable Member for the West Riding of Yorkshire, that in order to make it perfectly correct, the Committee should have an exact comparative idea of the numbers sentenced in those three years. The return for 1855 should be corrected by deducting those who were tried at the winter assize in that year, and sentenced to penal servitude and transportation, there having been no winter assize held in either of the preceding years; that is to say, for 22 counties; there was such an assize held in all the three years for York and for Lancaster, but in 1855 there were 22 other counties added, in which there was no such assize in the two previous years; therefore, of course, it would be unfair to the year 1855, in comparing the three together, to add to the number in 1855 those sentenced at that winter assize coming from those 22 counties. I have, therefore, deducted them now from the number of those sentenced to transportation and penal servitude in 1855, and the deductions are 25 sentenced to transportation and 56 sentenced to penal servitude, making a deduction of 81; that makes the comparative numbers for the year 1853, 2,368; for 1854, 2,418; and for 1855, 2,292; making therefore a considerable diminution upon 1854, and a slight diminution upon 1853.

252. Will you now hand in the table?—(*The Witness delivered in the same.*) *Vide* Appendix.

253. Mr. *B. Denison.*] This diminution of 126 between 1854 and 1855 is upon the graver offences which were tried at the assizes?—It is upon persons wherever tried, whether at assizes or sessions, sentenced to penal servitude and transportation; therefore no doubt they were the graver offences.

254. *Chairman.*] Have you any further information with you which you think would be of service to this inquiry?—Yes. Since I had the honour of being examined before, I have obtained returns from Ireland, stating the number of prisoners under sentence of transportation at the time of the change of the law, who have since been discharged in that country. This return extends from the 1st of September 1853 to the 10th of April 1856; therefore it extends somewhat later than the returns which I have before given, and it gives of male convicts discharged with free pardons 1,149; of females discharged with free pardons 21, making 1,170; to those must be added 371 male convicts who have returned to Ireland from Bermuda and Gibraltar; those are upon pardons. Then the next table is the number discharged upon licence, which, as I had the honour to mention to the Committee, was extremely small, amounting to 20 males and nine females in all, up to the 10th of April 1856. I will also hand in these tables, if the Committee will allow me. (*The Witness delivered in the same.*) *Vide* Appendix.

255. Lord *Naas.*] Can you tell the Committee the number of convicts in Ireland during that period?—I cannot; I have not got those returns; but that could be very easily obtained.

256. You say that 371 returned from Bermuda and Gibraltar in that time?—Yes.

257. Can you tell how many returned to England from Bermuda and Gibraltar in the same time?—That I can obtain very easily.

258. *Chairman.*] Will you be so kind as to do so?—Yes. I am not sure whether that is or not contained in the return which I have handed in.

*H. Waddington*, Esq.

21 April 1856.

259. Mr. *S. Fitzgerald.*] Were those 371 who returned prisoners whose sentences had expired?—They had worked out the portion which was supposed to entitle them to a free pardon, if not transported; they had not worked out their full sentences.

260. Those were the prisoners who had returned from Bermuda and Gibraltar?—Yes.

261. You send none there except those who are under sentence of transportation?—None formerly, but we have of late sent males under sentence of penal servitude.

262. For long periods?—For long periods. The Act enables us to do that; it puts persons under sentence of penal servitude under all the statutes which govern the treatment of persons under sentence of transportation.

263. Then none of the 371 were discharged with tickets-of-leave?—None; at least I believe not. It is not stated whether any of them formed a portion of the 20, but I should think not, in all probability. There were only 20 discharged in Ireland upon tickets-of-leave altogether.

264. Have any of those returned from Bermuda or Gibraltar been discharged to Ireland upon tickets-of-leave?—No, I presume not. This is the whole number of tickets which have been granted in Ireland to any convicts whatever.

265. *Chairman.*] Have you any other document or any further information to give to the Committee?—No; there were two documents which are no doubt of great importance, asked for by two Members of the Committee, which I will endeavour to procure. One was the number of persons discharged under tickets-of-leave, reported for misconduct, who formed a portion of those released in the first period. It will require a great deal of trouble to procure it, but I have no doubt we can do it in time. We must go through the nominal list and compare them all; but that return I will endeavour to get. The second document was a return for the year 1854, of all the persons convicted who had been previously under sentence of transportation, or of long terms of imprisonment; that we will endeavour to get. We must write a circular to all the gaolers; but we will obtain the information as far as we can.

266. You hope to be able to put those documents in at a later stage of the inquiry?—I will do so, as soon as we get them; I am afraid the latter will be very imperfect, because the gaolers will only give us a portion; I am afraid many will have escaped notice.

*Thomas Frederick Elliot*, Esq., called in; and Examined.

*T. F. Elliot*, Esq.

267. *Chairman.*] WHAT office do you hold?—I am Assistant Under Secretary of State in the Colonial Department.

268. Have you had opportunities of becoming acquainted with the subject of transportation?—I received my appointment in 1847, and I have ever since had direct charge of all correspondence on transportation; that is, for about nine years. Early in life I had a good deal to do with correspondence with Australia, and after a short service in Canada, I was head of the Emigration Department, and sent about 40,000 or 50,000 emigrants to Australia. I have, therefore, long taken an interest in Australian affairs.

269. About how many years was transportation adopted by this country as a principal means of secondary punishment?—As a principal means since the creation of the Australian colonies; there was previously, as is doubtless well known to the Committee, an irregular sort of banishment to North America. It was a very anomalous and very limited proceeding; the people were sent out in a kind of slavery, being able to redeem their liberty by labour. But New South Wales was founded about the year 1784, and then transportation began as a regular means of secondary punishment.

270. New South Wales was founded, I believe, as a colony expressly for the reception of offenders?—Exclusively for the reception of offenders. Van Diemen's Land was founded not long afterwards, and divided the reception of convicts with New South Wales.

271. Was that founded also expressly as a colony for the reception of convicts?—Expressly as a colony for the reception of convicts.

272. Do you remember the Select Committee of the House of Commons appointed to consider the subject of transportation in the year 1837, who sat in that year and the following year 1838, called Sir William Molesworth's Committee?—I do;

—I do: that Committee would probably afford the best starting point for any one who wishes to study the history of this subject. Their Report is a monument of industry and of systematic inquiry. At the time, it was supposed that the Chairman and the more influential members had a strong preconceived opinion against transportation; and it appears singular enough now, when we hear all the colonies complaining of receiving convicts, that the first effect in Australia was great annoyance at seeing the terms in which transportation was described in that Report.

273. I believe the Report was decidedly unfavourable to the continuance of transportation as a punishment?—Decidedly unfavourable. The system which prevailed at that time in Australia was what was called the system of assignment. It had some considerable advantages; the convicts used to be assigned to private masters, and the result was, that they were dispersed all over the country in small parties; they came under a sort of domestic discipline and formed part of a regular household. These influences were very favourable, but the drawback was, that in the hands of tyrannical masters the system might be very oppressive, and that other masters went to the opposite extreme; they tried to bribe the convict, so to speak, to do more work by undue indulgence; the Committee therefore condemned the practice as very unequal, and open to great abuses.

274. I think you say that that opinion so expressed by the Committee, and reported by them to the House, did not at first meet with concurrence in the Australian colonies themselves?—It by no means met with immediate concurrence. All the principal authorities, not merely executive but legislative, complained of the account given of the state of the colonies; they said that the picture was overcharged and partial. By degrees, however, the number of free people grew greater and greater in those colonies, and they began to look upon the reception of convicts as a stigma and a taint, and were much more warm against transportation than anyone in England.

275. What measures were adopted by the Government of this country in consequence of that Report?—The Government at home were immediately influenced to a great extent by the Report. They took measures to increase the penitentiaries; Pentonville was built in consequence of the Report of that Committee; they increased the number of people sent to Bermuda to be kept at hard labour; they commenced sending convicts to Gibraltar, and not long afterwards, in the year 1840, they discontinued transportation to New South Wales altogether. I ought to explain, that some years after transportation, properly so called, to New South Wales was discontinued, there was a qualified transportation of men called exiles; they were no longer in the convict condition, they were pardoned men, sent out to spend the rest of their days in New South Wales. This lasted but for a short time, and the numbers were not large.

276. Can you state in what year that took place?—To the best of my recollection it was about 1846.

277. Why was it discontinued?—I think that the growing dissatisfaction of the colonists in New South Wales led to the discontinuance even of that limited transportation.

278. And it finally ceased even in its qualified shape at that time?—It did.

279. Mr. *B. Denison.*] In what year?—About 1848.

280. Mr. *Adderley.*] What was its commencing date?—I apprehend it lasted but two years; about 1847 and 1848.

281. *Chairman.*] What number of persons were sent out under the exile system?—About 2,000; I see by a return I have, that it was a little later than I thought; it was in 1849 that it finally ended.

282. Will you give us a summary of the different measures that were taken with regard to the colony of New South Wales, as consequent upon the Report of the Transportation Committee of 1837?—After the immediate measures which I have already described of increasing the number of convicts sent to Bermuda and Gibraltar, and of building Pentonville, and discontinuing transportation to New South Wales, the next most important step taken was by the present Lord Derby, when he was Colonial Minister.

283. Mr. *B. Denison.*] In what year was that?—In the year 1842. Finding that by the discontinuance of transportation to New South Wales, a much greater number of men than before must go to Van Diemen's Land, Lord Derby appears to have felt that it was very important to set up as good a system of discipline as possible. A very elaborate despatch was accordingly written out, providing for four or five successive stages of probation among these convicts until they should be

*T. F. Elliot*, Esq.

21 April 1856.

be pardoned. Any one who refers to that despatch will see what great pains were taken on the subject; but two occurrences defeated the success of Lord Derby's efforts; one was, that the immense number of convicts poured into that small island, produced such a congregation of the criminal class, that the corruption amongst them became unconquerable. The other unfavorable circumstance was, that this great supply of labour far outran the colonial means of employment. The reward held out to well-conducted convicts had been, that on release they would get good employment at wages there, and so they had done formerly, but when their number was so large, nobody wanted them, and it was rather a misfortune to a convict to be set at large; concurrently with this, the most terrible prevalence of unnatural crime appeared amongst these immense numbers of males sent out without women. This created a natural and a very laudable horror in the minds of the colonists, and I have no doubt that from that period we may date the great antipathy of the colonists to the continuance of transportation.

284. Sir *J. Pakington.*] You are speaking now of the colonists of Van Diemen's Land?—Yes. When Lord Derby experienced these disturbing causes, he perceived that it was impossible to go on sending this vast number of male convicts only to Van Diemen's Land, and the expedient which occurred to his mind was, to found a new penal colony. Almost immediately before leaving office, in I think the year 1846, Lord Derby threw out the first idea of forming a penal settlement in North Australia; Mr. Gladstone succeeded to Lord Derby, he elaborated all the details of the plan, and intended to carry it into execution.

285. *Chairman.*] Was there any suspension of the transportation to Van Diemen's Land before 1847?—Yes; Mr. Gladstone's first measure on taking the seals of the Colonial Office, was to suspend transportation to Van Diemen's Land. Whatever else might require to be done, he considered it indispensable to put an end to the horrible facts of which he was then receiving accounts. Transportation to Van Diemen's Land was accordingly suspended for nearly two years.

286. In 1846 and 1847?—Yes. When Mr. Gladstone quitted office, Lord Grey, as Colonial Minister, in consultation with Sir George Grey, as Home Secretary, resolved to give up the plan of North Australia; he considered that the project of a new penal settlement was open to insuperable objections, and he reverted to Van Diemen's Land, meaning to send out a smaller number of prisoners.

287. Was any new system then adopted?—Yes. Under Lord Grey's administration a system was also prepared with great pains. The plan resolved upon by the Government at that time, and which continued in force until transportation to Van Diemen's Land ceased, was this, that every convict, without exception, should undergo a period of from one year to a year and a half of imprisonment in England; that after that he should be kept for a period varying from one and a half to three years at labour on public works in England, or on the public works at Bermuda and Gibraltar, and that after those two preliminary stages every convict, without exception, should be transported to the colonies, and remain there. This was the general scheme. Then Lord Grey was exceedingly anxious to improve the discipline in Van Diemen's Land. When the number of convicts suddenly had become so large, the existing number of officers was quite inadequate to keep the people in order; great confusion ensued, and great abuses. Lord Grey was fortunate enough to get a very able man to go out as head of the convict establishment. Sir William Denison at that period also succeeded to be governor, and those two officers, whatever else may be thought of transportation, did certainly succeed in bringing the convicts there into excellent order.

288. Sir *J. Pakington.*] Who was the head of the convict establishment to whom you allude?—Mr. Hampton, the Comptroller-general of Convicts. Lord Grey and Sir George Grey also thought of another very natural expedient. A difficulty it was obvious had arisen from the overcrowding in Van Diemen's Land. Lord Grey took all the measures in his power to persuade other colonies to take a share of the convicts. If four or five colonies had taken the same number as went to Van Diemen's Land, none of these evils that we heard of might have occurred; but all the measures taken with that view failed. New South Wales, although invited to receive them again, after some indecision, eventually refused to have any convicts.

289. *Chairman.*] In the year 1847, was not there a Committee of the House of Lords, who sat and reported upon this question of transportation?—Yes; there was

was a Committee of the House of Lords, which reported very strongly indeed in favour of the punishment of transportation.

290. I believe that Committee examined a great number of the judges, and a number of other persons whom they thought likely to throw light upon the question?—They did; and the opinion of the majority of the judges was very strongly indeed in favour of the continuance of transportation.

291. Was it in consequence of the report of that Committee, among other considerations, that Lord Grey used those endeavours to which you are now going to call our attention, to induce the colonies to take more of those convicts?—Undoubtedly it was; several causes, I think, concurred in inducing Lord Grey to make those endeavours. He had this weighty report of the Committee of the House of Lords urging an attempt to save the punishment of transportation; he had reports from the inspectors of prisons, describing great success in the new system of discipline at home, stating that the prisoners were much better conducted than they used to be; and armed with these documents, he applied to different colonies, holding out hopes that they would find convicts not so bad as they had been, and also offering to them certain advantages if they would listen to his wishes. New South Wales, however, as I have said, after considerable doubt and difference of opinion in the colony itself, finally declined. The Governor of New Zealand represented, that a colony of that kind, inhabited by numerous warlike aborigines, was totally unfit to receive English criminals. Some of the tropical colonies were tried; the Mauritius and Ceylon; but there the authorities said that no Europeans could be placed.

292. Owing to the warm climate?—Owing to the climate. The Cape of Good Hope, it must be familiar to all members of the Committee, offered a violent resistance to the reception of convicts.

293. What took place in Van Diemen's Land?—In Van Diemen's Land many of the evils from which the inhabitants had suffered had greatly abated. The discipline, as I have said, had been improved, the unnatural crime at which they had been so justly shocked was certainly put down, and the number of convicts was no longer much in excess of the demand for labour. But by this time the colonists had conceived a rooted dislike to the system under which they had so much suffered, and a long controversy went on upon the advantages and effects of transportation; but the end was, that the party opposed to it prevailed. It is important to remark that the neighbouring colonies took up the cause of Van Diemen's Land; and New South Wales, although is was no longer directly receiving convicts, considered it almost equally objectionable that they should go into the neighbouring island of Van Diemen's Land. There was a great public agitation; it became the most important political question in Australia; a society was constituted, called the Australian League, denouncing this country for sending out its criminals, and the end was, that it became apparent that without a most formidable conflict with all the Australian colonies transportation must cease.

294. Sir *J. Pakington.*] Victoria was no less zealous, I think, in promoting that league?—Victoria was also prominent in promoting the league.

295. *Chairman.*] What was the result of the whole?—The result was this, that the Government of that day, by which time Lord Derby was Prime Minister, and Sir John Pakington was Secretary of State for the Colonies, must, I presume, have felt satisfied that it was impossible to carry on this system in the face of an almost unanimous opposition in the colonies; and there was also this other fact, which could hardly have failed to weigh with the Government, that as soon as the colonists were opposed to it, all the benefits of transportation ceased. One great advantage of the system was, that so long as the colonists would employ the convicts, so that they had a good chance of occupation, they cost the public no more money; but when once the colonists were resolved to have nothing to do with them, the Government would have had on its hands an indefinite number of able-bodied criminals in a pauper condition, to be supported by British money.

296. I believe it was announced at the end of 1852, was it not, by a despatch from the Secretary of State, that transportation to Van Diemen's Land would cease henceforth?—It was.

297. There was an Order in Council, I believe, to carry that out?—Yes.

298. When was that Order in Council issued?—The Order in Council was passed in January 1854.

299. Sir *J. Pakington.*] You have just stated that the Order in Council putting a final end to transportation, was not issued till January 1854. The Secretary

*T. F. Elliot, Esq.*

21 April 1856.

Secretary of State's despatch, announcing the intention of putting an end to transportation, was written and sent in December 1852?—Yes.

300. I presume that the delay which took place between the writing of the despatch and the issuing of the Order in Council, arose from the necessity of bringing the change into gradual operation, and awaiting the legislation which took place in the Session of 1853?—I think that the revocation of the original order was omitted merely because it was a permissive order, and no particular importance was attached to revoking it.

301. Considering the fact that the Act of Parliament which substituted penal servitude for transportation did not receive the Royal Assent till August 1853, supposing that the Order in Council, putting an end to transportation, had been issued in January 1853, would not great inconvenience have arisen during the intervening time in disposing of convicts?—That might have occurred.

302. Is it not a fact, that notwithstanding the announced intention of the Government to put a stop to transportation, it was necessary to send transports abroad during the year 1853?—None to Van Diemen's Land.

303. Were none at all sent to Van Diemen's Land?—None.

304. Not during the year 1853?—No. That despatch very prudently would not make a positive pledge that transportation should instantly cease, but the Government was, in fact, able to dispense with transporting any more.

305. Lord *Naas.*] Then for all practical purposes, transportation to Van Diemen's Land ceased upon the writing of Sir John Pakington's despatch?—It did.

306. Sir *J. Pakington.*] Then I presume that those transports which it was found necessary to send abroad during the year 1853, were sent to Western Australia?—They were.

307. *Chairman.*] That question introduces the subject of Western Australia; Western Australia, as I understand you, became, after December 1852, practically the only settlement open for transported offenders?—That is the case.

308. Can you give the Committee any information with regard to Western Australia; was it in a flourishing state at that time, at the end of 1852?—No, it was not. About the year 1850 the population of Western Australia, impressed probably with the stagnant condition in which they found themselves, compared with other Australian colonies, had applied to the Government to send them convicts; this colony alone of all the British colonies was desirous to have convicts.

309. What sort of climate has it?—The climate of Western Australia is exceedingly good.

310. What is the soil?—The soil is not so good, especially in situations near the sea, and there is, unfortunately, a great want of good harbours. These facts combined with an exceedingly injudicious plan on which the colony was originally settled, had caused it very much to languish, and hence, doubtless, the readiness of the inhabitants to receive a supply of convict labour, and perhaps also, to enjoy the indirect advantages of a very large Government expenditure.

311. Can you state what was the number of European inhabitants in the colony of Western Australia in 1850?—It contained less than 6,000 European inhabitants, including men, women, and children.

312. That was about 20 years after the formation of the original settlement, was it not?—Yes.

313. Was it in 1849 and 1850 that Western Australia applied to the Government of this country to send convicts to that colony?—It was.

314. What was the kind of representation which came; was it pretty unanimous?—Yes; there were no dissentients who made their sentiments known; it was the unanimous desire of those who took an interest in public affairs.

315. Both from resident colonists and persons connected with them in this country?—From both.

316. Was the wish thus expressed assented to on the part of the Government?—The wish was assented to; a small party of convicts was dispatched immediately.

317. What was the date of the first dispatch of convicts?—The end of the year 1850. To prevent mistakes, it may be well just to explain that a very few juvenile offenders had been sent to Western Australia in previous years; but as this was not transportation of adult males, and is not connected with the question more immediately under inquiry, I do not now refer to them.

318. Can

318. Can you give the Committee a statement of the numbers sent year by year since 1850?—The number sent in the year 1850, was 384.

319. Is that from Great Britain?—Yes.

320. Were any sent from Ireland?—None; in 1851, 878 were sent from Great Britain.

321. Were any sent from Ireland in that year?—None from Ireland; in 1852, 442 were sent from Great Britain.

322. These are all to Western Australia?—Yes.

323. Were any sent from Ireland?—None, in that year.

324. What was the number for 1853?—In 1853, 600 were sent from Great Britain; from Ireland 592; the total being 1,192.

325. In the year 1854, how many were sent?—In 1854, from Great Britain, 280.

326. Were any sent from Ireland?—None from Ireland; in 1855, there were 485 from Great Britain.

327. Any from Ireland?—No.

328. Have any gone this year?—This year there is a small party of 250 who have gone.

329. From Great Britain?—From Great Britain.

330. What is the aggregate number from Great Britain since the year 1850, who have gone to Western Australia?—The whole number that have gone is 3,319.

331. What is the total sent from Ireland?—Five hundred and ninety-two.

332. And what is the gross total?—Three thousand nine hundred and eleven.

333. That represents the number since the first sending of convicts in 1850 down to the present year?—It does.

334. And including some in January of the present year?—Yes, including 250 sent this year.

335. Do you know the present population of Western Australia?—We have no accurate return, but I am sorry to say we know that the free population has not increased by any immigration, except that sent in by means of Government funds.

336. Sir *J. Pakington.*] When you speak of Government funds, what fund do you refer to?—Funds voted by Parliament for sending free people to any colonies which will receive convicts.

337. You do not refer to any arrangement under the Australian land system?—No.

338. *Chairman.*] With these convicts, have there been sent out a considerable number of the military pensioners to serve as guards on the voyage, and as the means of protection in the colony?—Yes, a considerable number.

339. What number?—The pensioners and their families jointly, have amounted to 1,476 people.

340. Has a company of sappers and miners also been sent, both as a military guard and as superintendents and instructors upon the public works?—That is the fact; but some of those sappers will perhaps return to this country.

341. How many were they?—A company of 100 were sent out; the married men are to remain, the single men will be brought home.

342. In what manner were the convicts received at first in Western Australia?—Their arrival was very welcome, and up to the present time, the only complaint I have heard of is, that we do not send convicts fast enough. But this representation requires to be a little scrutinised; we have found that the colonial settlers are not able to employ convicts as fast as we set them free; we have had many convicts who were entitled to their freedom, but to whom we were obliged to give employment, because otherwise they would have starved. Again, the Government promised to send free labourers to any colony which would receive convicts. To colonies, such as New South Wales and Van Diemen's Land, that would have been a great boon, because they were in great want of labour, and these free people would have been readily employed. In Western Australia, on the contrary, several of the free people, healthy and of good character, long remained chargeable to the public; the consequence is, that the Government has been obliged for a time somewhat to slacken the speed of the free emigration; we could not take people of good character and strong bodily health from this country, and send them to the antipodes that they might become paupers.

343. Generally speaking, what has been the conduct of the convicts sent to Western Australia?—Their conduct has in the main been unexceptionable.

344. What has been the nature of the employment generally which has been assigned

*T. F. Elliot*, Esq.

21 April 1856.

assigned to them?—The first object was to build a proper prison for their own accommodation; they have also been employed in constructing new landing-places; some of them have been used in making roads. The wish of the Government is, that eventually they should be as much as possible employed on public works which will conduce to the prosperity of the colony, but at the outset of course they had to attend to their own accommodation.

345. Are a considerable number of them in private service?—Yes, a considerable number are now in private service; but still it is quite evident from the facts I have submitted to the Committee, that we might very easily overdo the number sent, so as to create a great embarrassment in Western Australia.

346. Have you any notion how many ticket-of-leave men are employed at service?—Upwards of 1,000 ticket-of-leave men are employed at service.

347. Have you any statement to show the increase of revenue and trade in the colony of Western Australia since convicts began to be received there?—Yes, I can supply such a statement. In the year before convicts were sent, namely, in 1849, the colonial revenue was 9,600*l.* In the year 1854 it was 33,600*l.* The imports in the first year, namely, 1849, were 28,500 *l.*; in 1854, 128,200 *l.* The exports in 1849 were 26,100 *l.*; in 1854 they were 34,100 *l.*

348. Sir *J. Pakington.*] What were those exports?—Timber, some wool and some lead, fish and oil, and probably some horses. But what will doubtless not have escaped the attention of the Committee is this, that the exports are the true measure of the improvement in the colony, and that the increase in the exports has been very small; the increase in the imports may very likely be attributable to a great extent to the large imports wanted for the use of the establishments for the convicts. I am afraid that the increase in revenue and in imports is rather a fallacious test of prosperity.

349. *Chairman.*] With regard to those two years, 1849 and 1854, have you the means of stating the population in each of those years?—I do not think I have. I will endeavour to ascertain whether we have returns. The material fact, which we know indirectly, is that there has been hardly any influx of free settlers except those sent in by aid from public funds.

350. Are you able to explain that in any way?—Yes, I think it is not difficult to account for it. When the inhabitants applied for convicts to be sent to Western Australia, it might not unreasonably have been hoped that by an abundant supply of cheap labour, and also the advantage of a great demand for produce, the colony would have become attractive, and that settlers of capital would have entered; in short, it might have been hoped that something would have happened resembling more or less what did take place in former years in New South Wales and Van Diemen's Land; but scarcely had the Government given its consent to send convicts to Western Australia, when gold was discovered in New South Wales. The moment that this took place, no man of enterprise or capital who was going to Australia would think of proceeding to a languishing settlement on the Western Coast; he rather went to Eastern Australia, and consequently Western Australia has made but little progress.

351. Mr. *B. Denison.*] Can you tell us how they have paid for the excess of imports over exports?—I should be afraid that a great deal of British money has been spent in buying articles for the convicts. It has been necessary even to import food for the convicts.

352. *Chairman.*] You stated the whole number of convicts which had been sent into the colony, as 3,911 since the first sending?—Yes.

353. Have you a statement of the number of free persons who have been sent by public aid?—Yes. The number of free people, men, women, and children, sent by public aid, has been 2,310 private emigrants, and 1,476 pensioners and their families; making a total of 3,786.

354. Was there any intermission in the supply?—The dispatch of private emigrants was interrupted in consequence of hearing that so many of them had been unable to find employment.

355. Did a great many of them, in point of fact, become burdens upon the public there, being unable to support themselves?—They did for a certain time. In 1854, no less than 2,500*l.*, in round numbers, was expended in the support of emigrants who had become burthensome to the public.

356. Can you give the Committee a statement as to the cost of the establishment in Western Australia?—It has been very large. In the five years ending 1855 the amount of money voted by Parliament has been 322,525 *l.* For this sum the country

country has got rid of 3,900 convicts. This is irrespective of the charge for transports, which, for taking that number of convicts, accompanied by their guards, can certainly not fall short of 80,000 *l.*

357. Sir *J. Pakington.*] That amounts to how much per annum on the average?—It is about 80,000 *l.* a year; the average per head is very large; it is upwards of 100 *l.* per man.

358. Mr. *Adderley.*] May we suppose that 400,000 *l.* covers all the expense incurred by this country?—It is a rough calculation.

359. Sir *J. Pakington.*] What do you include in the colonial portion of that expenditure?—The expenditure I have now mentioned has been wholly British money, voted by Parliament.

360. What is included in the portion of that money which is expended in the colony; what items of expense?—First, the salaries of the officers, the cost of the buildings which are to accommodate the convicts, the cost of forming roads, especially those leading to the new convict public works; and also, an important item, the sum which it is necessary to spend in finding employment for ticket-of-leave men, who in so small a colony cannot find private masters.

361. Is the governor's salary included?—No; the governor's salary is voted separately by Parliament, amongst a long list of colonial governors in the Colonial Estimates.

362. *Chairman.*] Can you give the Committee any information with regard to the difficulty now experienced in obtaining a sufficient supply of convicts of the kind wanted for this colony, and intended for transportation?—At first sight it appears remarkable, that when we have all been so anxious to find an outlet for convicts, we have the inhabitants of Western Australia lamenting that they do not receive more convicts, and yet that the departments in this country are unable to find more to send. The explanation is, first, that the number sentenced is so much reduced, and next, that you can only send one description of convicts so great a distance. You ought to send a man who has a certain period of his term still to serve; otherwise it is not worth while to go to so great an expense; and he ought to be in good health, and capable of some special employment. Now, when all these conditions are put together, it has turned out to be difficult to find a sufficient supply for the wants of the colony.

363. Mr. *B. Denison.*] You mean a sufficient supply of such men as would be acceptable to them?—As would be acceptable to them, or as it would be any advantage to this country to send; because, if you send a convict who is sickly, or if you send a convict who turns out a lunatic, which often happens, the colony justly says that Great Britain is bound to take care of him, and to pay for his maintenance.

364. Mr. *Adderley.*] Or a pauper either?—Or a pauper either. The rule followed with respect to paupers has been, that if a convict at the time of arriving in the colony was, either from his state of mind or body, unfit to earn his own livelihood, or if he was so unfit at the time of being discharged, then Great Britain ought to bear the expense of his maintenance; but if he has once become at large in the colony, and has been earning his own livelihood, and eventually becomes a pauper, the colony pays for his subsistence.

365. *Chairman.*] Do you know what the number of persons sentenced to transportation in the year 1854 was for the whole of the United Kingdom?—One less than 400.

366. Out of that number, could you by any possibility obtain the number of fit convicts for the purposes of Western Australia?—It is quite obvious that it is impossible, and the other explanations which I offered before refer to the large accumulated number which we have of convicts formerly sentenced to transportation.

367. Is there any further information which you have to give with regard to Western Australia which you think will be useful to this Committee?—I think that the questions of the Committee have elicited all the main points of interest connected with that colony.

368. Is there a place called Moreton Bay, with regard to which some suggestion has been made that it might be used as a settlement for convicts?—Yes; Moreton Bay is a northern district of New South Wales, and after transportation to New South Wales had ceased at the wish of the people, a large portion of the inhabitants of Moreton Bay regretted the decision, and asked that convicts might be sent to their part of the country. It would be legally impossible to do this, so long as Moreton Bay forms part of the Government of New South Wales, because

*T. F. Elliot, Esq.*

21 April 1856.

the order allowing transportation to that colony has been revoked. The next question agitated was whether Moreton Bay should be separated from New South Wales, in order to admit of its receiving convicts. This allows of a good deal of difference of opinion.

369. Have you turned your attention to the subject of the expediency of forming a new penal settlement?—Yes, I have thought a good deal upon that subject.

370. Are you aware that Mr. Waddington expressed an opinion upon that subject on Thursday last?—I was not aware that Mr. Waddington had expressed an opinion upon it.

371. Can you give the Committee any information or suggestions with regard to that question?—I have arrived at a conclusion, which I am afraid can hardly be palatable at first in England; but I am clearly of opinion that it is impossible to form a good new penal settlement. The evidence which I have just submitted to the Committee about Western Australia, may probably have produced the impression that even there, with all the advantages of 20 years' previous settlement, and of having a free population, although a small one, our experiment has been anything but successful; the establishment has been enormously costly in proportion to the relief which this country has enjoyed. But all these difficulties would be far greater in an entirely new country. In the first place, I am at a loss, as a question of geography, to think of any unoccupied territory that is well fitted for the reception of European convicts. In the next place there is this difficulty, that if there be any large free population, we have now learned by experience that they will not consent to receive our criminals for us; if there be none, it seems to me that we should be having a repetition of Norfolk Island on a large scale. When I hear it suggested that we should send our convicts to the Gulf of Carpentaria, I cannot but remember that at the end of five or six years you would have 20,000 or 30,000 English male criminals there, men becoming free by lapse of time, and men whom, even if physically possible, you could not lawfully force to stop there; they would have a right to possess their own schooners, and they would have passing almost in sight of them a trade of immense value, which goes through Torres Straits. It seems to me that we should be creating a nest of pirates. Moreover, if any one looks to the history of Norfolk Island and the frightful evils which occurred there, from having convicts and no one else, this also, I think, must rather alarm him. When the foundation of North Australia was contemplated, these difficulties were, of course, not wholly overlooked. One obvious difficulty is alluded to in the despatches, written at that time, namely, the want of women. The proposal was to cure that defect by giving them the indulgence of sending them all the female convicts of this country. Now, the female convicts of this country are very small in number compared with the male; but there is no one who has been at all conversant with the history of convicts in Australia but must be quite well aware that the influence of female convicts is wholly valueless upon male convicts; women of depraved character do them no good whatsoever; nor is it surprising. I have happened to watch the formation of a good many new colonies; I do not know that any one yet has been formed for much less than half a million sterling; I am afraid that we should find it prodigiously expensive to found this proposed new penal settlement in any part of Australia. I must likewise not forget to mention, that after all, the gold fields are not so very far off, and that when these men cease to be in bondage, such of them as might not take to fearful malpractices in the Eastern Archipelago and off the Northern coast of New Holland, would undoubtedly find their way from North Australia to the neighbouring gold fields. For these reasons, with great regret I do not believe that a new penal settlement would extricate us from our difficulty.

372. You have mentioned two places in the course of your evidence, Bermuda and Gibraltar; they, I believe, are not places of transportation properly so called, but rather places for placing convicts at hard labour; is not that so?—They are.

373. Like our English convict prisons and public works?—Quite so.

374. About what is the number of prisoners at Bermuda?—The number at present is about 1,200.

375. And at Gibraltar?—The average number is about 800; great endeavours have been made within the last year or two to improve the discipline at Bermuda and Gibraltar, and to assimilate the establishments there to the improved prison establishments at home.

376. Have you any information which you can give the Committee with respect to Gibraltar and Bermuda, which you think might be useful with reference to the subject

subject of their inquiry?—It may be worth while just to mention that the prisoners there are under exactly the same conditions as if they were at Portland or at Dartmoor in this country; they have to undergo their period of service on public works, at either of those two colonies, instead of at one of the home prisons. When the time comes for releasing them, it is necessary to send them to England to be released in like manner as if they had passed their sentence at home.

377. Sir *J. Pakington.*] You have alluded in your evidence to the demand which has been made from Western Australia for a larger number of convicts; it was stated by Mr. Waddington in his examination, that that demand was to the extent that they wished to be supplied with 600 or 700 convicts a year, instead of the number which we have supplied in the last three years, which has been from 300 to 400; are you aware of that fact?—I am aware that they wish at present an additional supply.

378. Can you tell the Committee when it was that that demand from Western Australia for an increased number of convicts arrived?—It has hardly been a demand, strictly speaking, for any specific annual increase; they wished us to send them a tolerably large number of convicts every year; they found by experience that the number was smaller than probably they had anticipated, and hence the authorities, especially, have asked for more; they have not nearly convicts enough at present for the public works which they want to execute. For example, the convicts cannot yet finish the building of their own prison.

379. How do you reconcile that statement with the evidence which you have given us, as to the great difficulty of finding employment for those who are sent to Western Australia?—By this distinction, that the scarcity is of men in the capacity of prisoners, who are to work for the Government within the prison walls; there is not a scarcity of men in the condition of ticket-of-leave men.

380. Then the difficulty arises, if I understand you rightly, from the preference entertained by the colonists for the employment of convict labour, rather than for the employment of free labour?—I think that the demand for more convicts has come chiefly from the executive officers, who want more hands for their prison, and partly from the colonists who may be alarmed at seeing the supply diminish, lest (if I may say it without offence) the Government expenditure should shortly diminish, and the system gradually die out.

381. Then, if I understand you rightly, you divide the labour of Western Australia into two classes, Government labour carried on by convicts; and with regard to that kind of labour there is a scarcity?—Yes.

382. And free labour carried on by emigrants, and with regard to that sort of labour there is a glut; is that a correct interpretation of your statement?—It is; including ticket-of-leave men with emigrants.

383. Mr. Waddington was asked this question, and he gave the following answer: "Do you know whether any statement has been made in this communication from Western Australia, as to the extent to which that demand is likely to be a permanent one?" that is to say, a demand for 600 or 700 convicts a year. The answer is, "I had a conversation with Mr. Labouchere upon the subject, from which I certainly gathered from him that he considered that it would be so." Are you prepared to confirm that opinion so conveyed to this Committee by Mr. Waddington?—I cannot at this moment call to mind any report precisely to that effect. There is, however, vacant room for about 700.

384. Is it your opinion or not, that the demand for an increased number of convicts to be sent to Western Australia is likely to be a permanent demand?—The answer to that question must entirely depend on the future prosperity of Western Australia. If there had not been the unfortunate discovery, for our present purpose, of gold, I should have felt sanguine that there would have been a great influx of free settlers, and that we might more and more have increased the number of convicts which the colony would absorb; but inasmuch as for the last five years we have not seen the least symptom of a spontaneous increase by immigration in the free population, I do not think that there could be any large permanent demand for convicts in Western Australia.

385. At the same time I understand you not at all to doubt the statement that at the present time, at all events, Western Australia would gladly receive a considerably greater number of convicts than we now send there?—That I fully believe.

386. Are you aware whether any demand of a similar nature has lately been expressed from any other of the British colonies?—None that I know of, except from Moreton Bay, on which some evidence has already been given.

*T. F. Elliot*, Esq.

21 April 1856.

387. You stated in your evidence, speaking of Western Australia in 1852, that that colony alone was desirous to receive more convicts; are you aware, referring to the statement which you subsequently made, with regard to the anxiety of Moreton Bay for convicts, that that anxiety was expressed to the Colonial Office in 1852, the same year?—I am aware of it; but I looked upon Moreton Bay as a thinly peopled district of a colony, which as a whole protested vehemently against receiving convicts.

388. Are you aware, that not only, as you stated, was the question of the separation of Moreton Bay agitated, but that deputations came over to this country to pray for the separation of Moreton Bay from New South Wales, in order and with regard to that special object, that there might be no legal impediment to sending convicts to Moreton Bay?—I am aware of that fact. I know that there was one party, and very likely a majority in Moreton Bay, which would have been glad to receive convicts, but there was another party, even in Moreton Bay, which was averse to their introduction.

389. You have stated to this Committee, with perfect accuracy, the strong feeling which arose in Van Diemen's Land, with regard to the reception of convicts, which led to the discontinuance of that system; are you aware whether or not any change has taken place in the sentiments of the colonists of Van Diemen's Land upon this question?—I have seen no official report of any such change.

390. Have you heard in any way of any such change?—No, I have not.

391. You are not aware that they have begun to find a want of labour, in consequence of the discontinuance of the convict system?—No, I have not that knowledge.

392. You have spoken of North Australia as one of the places thought of for a new penal settlement; can you inform the Committee what was the nature of Mr. Gladstone's intentions, and to what extent his arrangements had gone in 1846?—Mr. Gladstone had organised his plan very fully, and it is set forth in a despatch which has been printed for Parliament. It is extant in a Parliamentary Paper on Convict Discipline, printed in February 1847.

393. If his plan, so described, had been carried out, it would, I imagine, have amounted to the establishment of exactly that description of colony which you have stated, in your opinion, is now an impossibility?—The colony which I described as seeming to me almost an impossibility, would have been one upon the Gulf of Carpentaria; but I also think that a colony upon the proposed site of North Australia would have been quite as objectionable.

394. What was the exact site of the proposed colony?—It was to be to the north of the 26th parallel of latitude, the 26th parallel of latitude being the northern limit of Moreton Bay, and close to districts which are now occupied by free people.

395. And still upon the eastern face of Australia?—Yes.

396. Lord *Naas*.] What is the climate there?—The climate is temperate. It is needless to say that it is close to the tropic; but there is a high table land, which renders it temperate in reference to its situation by latitude.

397. Sir *J. Pakington*.] Mr. Gladstone did not entertain the idea of establishing a colony in the Gulf of Carpentaria?—No.

398. Supposing a colony to be established in the Gulf of Carpentaria, do you think that that colony would be free from the danger to which you have alluded of being too near to the gold fields?—No, I do not think it would be free from that danger. The convicts, in the lapse of time, must become by law free, when you could not forbid the resort of free vessels to your coasts; you could not prohibit the ownership of vessels by the very men themselves who had been convicts. They might employ those schooners to go to the gold diggings, or they might, with less trouble, use them to pay a visit to the ships which were bringing gold to Europe.

399. Do you think that the difficulty, whatever it may be, with regard to the gold fields, would apply more to a colony in the Gulf of Carpentaria than it does at this moment apply to the colony of Western Australia?—It would apply more strongly to the Gulf of Carpentaria on account of the geographical position, on which I have so strongly dwelt.

400. It would be nearer?—Much nearer.

401. Do you think that any serious objection would exist to the establishment of a penal colony in the Gulf of Carpentaria on the ground of climate?—Our data are as yet so small that I should not feel it safe to hazard any confident opinion upon that subject.

402. Would not the climate of the Gulf of Carpentaria, making allowance for that difference which exists in the southern hemisphere, be still in fact a tropical climate?—Undoubtedly.

403. You expressed a strong opinion, as I understood you, of the impossibilty of founding a new penal colony at all?—I did.

404. Why in your opinion would it be now more difficult to found a new penal colony (of course assuming that a fit place is discovered) than it formerly was to found the two colonies of New South Wales and Van Diemen's Land?—My answer to that is, that the experience of New South Wales and Van Diemen's Land confirms me in my belief of the obstacles to a similar experiment now. For several years the number of convicts sent to New South Wales was very small indeed. The relief that would have been afforded to this country by that number would have been insignificant. What led to the great success of those colonies was the discovery of the value of the great export of wool. When that was discovered, free settlers poured in, capital accumulated, convicts found ready employment, and the whole experiment was most successful. I believe that in a condition such as that, when you have a large free population willing to employ convicts, transportation is the best secondary punishment which it is possible to conceive. I am no enemy to transportation; I lament its loss.

405. If I understand you rightly, you draw the distinction that it would be essential in founding a new penal colony, that there should be in that colony the elements of some commercial advantages in connexion with this country?—I think that to reap the advantages of transportation as a secondary punishment, you must have a large free population willing to receive and employ the convicts.

406. Was that the case in either of the instances which I have named?—It was not the case in the early years, and in those early years transportation was so small that it would have been of no value to you.

407. Is it not a fact that both those splendid and thriving colonies of the British Crown date their origin from the system of transportation?—They date their origin from that time, but they date their prosperity from the discovery of the value of wool as an export, and the consequent readiness of a large thriving free population to employ the convicts.

408. You have stated that no colony with free inhabitants will receive our criminals. How do you reconcile that with the facts adverted to to-day connected with both Western Australia and Moreton Bay?—I ventured in passing so far to correct my answer as to say, no colony with a *large* free population. I quite acknowledge that when, at the end of 20 years, the population of Western Australia only amounted, men, women and children, to 6,000, while they saw on the other side of Australia the great success and prosperity of their neighbours, they might be inclined to try the experiment of receiving convict labourers, and of enjoying the benefit of a great British expenditure.

409. They not only might be inclined, but they were?—Yes.

410. And that applies to both the colonies to which I have adverted?—That applies to Western Australia and to a part of New South Wales.

411. You mentioned Norfolk Island as an illustration of the impossibility of founding a new colony entirely of convicts; do not you think that the insular character of Norfolk Island, the extraordinarily small area of Norfolk Island, and the absence of anything like extensive public works, form peculiarities which would not apply with equal force, if at all, to a new penal colony founded elsewhere?—They were peculiarities, but I had in my mind points of similarity on which I only did not enlarge, because I was afraid of abusing the patience of the Committee. The insular position of course is a peculiarity, but what would be common to both is, that there would be an exclusively convict population, with the single exception of officers removed from all superintendence by high functionaries moving in a free country, and from all influence of public opinion. That would be common to the two. What excites my fear is, the idea of 20,000 or 30,000 grown-up male criminals, without women, without a free community, and without even any resident public officers, excepting those answerable for their custody.

412. Do you apprehend, that in the event of its being thought advisable to found a new penal colony, it would be impossible to find means of compensating those disadvantages?—I think that the only means would be by discovering some such unoccupied territory, that there would be a strong probability that free people would soon flow in, as they did flow into New South Wales, and then you might repeat the whole history again.

*T. F. Elliot*, Esq.

21 April 1856.

413. Do you think that no such place is to be found within the British dominions?—I think not now, because I believe that the discovery of gold has been fatal to our making use of colonies, for the present at all events, as a means of secondary punishment; I think that enterprising persons inclined to proceed to a distance, would go to the gold provinces; others, especially from political considerations, would perhaps go to the British American colonies; I cannot think that any persons of skill, and possessed of capital, would go to an entirely new place chiefly tenanted by the sweepings of our prisons.

414. Is it not a fact, notwithstanding the attractions held out by those gold discoveries, that the majority of our free emigrants still go to the North American colonies and the United States?—Yes, but there are no convicts there, and they are not going to a newly formed colony. I think that as matter of experience, you may judge by the experiment which we made five years ago. We made a new convict colony in Western Australia; we did all we could think of to invite people to go; we offered them advantageous terms in the acquisition of land, but they would not come forward.

415. Have you ever considered the Falkland Islands as a probable site for a penal colony?—Yes, we have had the Falkland Islands suggested, and the Auckland Islands suggested, and the Chatham Islands proposed; I think that all those proposals mistake the difficulty with which we have to grapple. Those places would all do very well for retaining men while in bondage, but I really think that the nearest common in Surrey would be a better place still. I think that so long as a man is locked up in prison, you can keep him as well at home, and you can more easily get good officers, who are also under the influence of public opinion, if anything is done amiss. The difficulty is to provide for the convicts when they become free men in a large community; for that purpose the Falkland Islands are wholly unsuited.

416. Have you ever entertained the idea of sending them either to Vancouver's Island, or the Labrador coast, or the Hudson's Bay territory?—I have heard that idea suggested. I suppose, in the case of Vancouver's Island, political considerations would come into play; I have not much knowledge on that subject.

417. Would not distance be a serious objection to Vancouver's Island?—It would.

418. What do you say to the other quarters?—I think that the territory of the Hudson's Bay Company is just as objectionable from being too cold, as are several others which have been thought of from being too hot; you can hardly create an English Siberia; and there is the further objection that this also would be very dear.

419. You are more conversant than most men are with this subject, and you therefore will allow me to ask you if these are your decided views as to the impossibility of founding a new penal colony, whether you have any definite plan in your own mind with regard to the future disposal of the worst class of convicts as they are convicted of crime in this country; what do you propose to do with them?—That is the question for this Committee, which we all hope to see them solve successfully.

420. It is a question which this Committee are seeking to solve by the aid of the evidence which they may receive from competent persons like yourself, and therefore I venture to ask whether you are prepared to offer any suggestions, or to express any opinion upon it?—The truth is (with respect and submission), that I have seen a great deal of what has taken place in the colonies on this matter, and that I have been anxious to submit, to the best of my power, all that I know to the Committee, but that the other is a great question of statesmanship, on which I feel bound to speak with diffidence and hesitation. I can assure the Committee that I have not omitted to think of it in my own mind, but I have no particular or official knowledge specially qualifying me to speak to the point. At the same time, as the question has been put, I will just say this much: we are the only civilised people in the world who have had the good fortune to have transportation at all. I think that while you had suitable colonies it was the best secondary punishment possible to be conceived, and I rejoice that we enjoyed its benefits so long; but if it is no longer possible to find English colonies abroad who will receive our criminals for us, I trust that as every other civilised country has had to do without transportation, England, in its wisdom, will in time find means of grappling with the difficulty. One thing is certain, we see already that two or three years ago a Secretary of State having written a despatch, and said that transportation must cease, the whole mind of England is awakened to this

question

question of secondary punishment in a manner that did not in the least exist before. We have all the intelligence of the country brought to bear upon it, and one may hope that the quantity of crime will be diminished, and its treatment improved. I do not suppose that there is one panacea; there must be all sorts of endeavours. They tell us that the use of pain is, that we may not allow anything to go on which would be injurious to our health or dangerous to our lives; and perhaps this great difficulty of not being able to send our criminals away will awaken us both to duties and to resources at home which we overlooked before.

421. Have you ever considered the suggestion of converting some of the Scotch islands, some of the Hebrides, into receptacles for convicts?—I have heard that suggestion, and I think it comes under the same class as those of the Falkland Islands and others I have mentioned; they would be very well for a penitentiary, but really Wandsworth Common is quite as good, and quite as unobjectionable.

422. Do you happen to know what proportion of the seven years' convicts sent abroad, as they latterly have been, ultimately came back to this country at the expiration of their sentences?—I have never heard that mentioned.

423. Have you any means in your office of ascertaining that?—No.

424. Then probably you cannot answer another question; namely, whether any considerable proportion of those convicts for shorter periods never came back at all?—My impression is, that the great majority of convicts, whether for long sentences or for short, remain in Australia.

425. Your impression is, that even with regard to the seven years' convicts, when the sentence of seven years' transportation was passed, practically in a great number of cases it was separation from this country, and from all the ties of kindred for life?—I think that owing to the great desire which we know that the men in prison have always felt to be removed to Australia, the presumption is, that they wished to remain there after they got out.

426. Are you able to state to this Committee an opinion whether or not that fact of a large proportion of our convicts, whether sentenced for long periods or short ones, remaining permanently in the colony, did throw around the sentence of transportation a degree of terror which cannot attach to limited periods of imprisonment in this island?—There is evidence of undoubted authority upon that point, which I feel it very difficult to reconcile. On the one hand, before the Committee of the House of Lords, which sat upon this question a few years ago, all the most experienced judges gave evidence that it was a cause of the utmost terror to a criminal and his friends to hear him sentenced to transportation. Of course, that evidence is beyond question; we must bow to it. On the other hand, I think the Committee will probably find that any one conversant with the feelings of the criminals, after they are in prison, will learn that they always look forward with great hope to being removed to Australia; and I have had within my own personal knowledge, which is very limited, since I only know of men in prison when they are at Bermuda and Gibraltar, many instances of well-conducted convicts, who complained and thought it was hard upon them, that on account of good conduct they were set free sooner and returned to England, instead of being kept on, so that in time they would be transported to Australia.

427. Prisoners under sentence of penal servitude, under the new law, are still sent to Bermuda and Gibraltar, are they not?—They are still sent to Bermuda and Gibraltar, and then return to England when it is time for them to be discharged.

428. Under the present law, a sentence of penal servitude may mean detention at Portland, or Dartmoor, or Bermuda, or Gibraltar?—It may.

429. Can you tell the Committee upon what principle, or whether upon any principle, the selections are made of those who shall go to Bermuda or Gibraltar, and those who shall stay in England?—Doubtless that information can be given with more precision by other witnesses concerned in the management of the prisons. We are constantly pressed, both from Bermuda and Gibraltar, to send as many skilled labourers as possible, and it has been found very difficult to furnish them in the required numbers.

430. Do you consider that there is any difference in the severity of carrying out a sentence according to whether a man is kept at Portland or sent out to Bermuda?—The climate is certainly less favourable to the constitution of an Englishman, both at Gibraltar and Bermuda, than at home.

431. We have been informed by Mr. Waddington that the number of prisoners who have been sentenced under the new law to transportation has been comparatively very small; only 300 or 400 a year; when you spoke just now of the difficulty

*T. F. Elliot*, Esq.
21 April 1856.

culty of finding fit men to go to Western Australia, did you mean that, out of that limited number sentenced within the last two years to transportation, a very considerable number were rejected as unfit for Western Australia?—I then had in my mind the whole number of convicts under sentence of transportation, whether accumulated from former years or recently sentenced.

432. You cannot tell me whether any considerable number of the recently sentenced transports were unfit to go out?—I cannot.

433. Mr. *M. Milnes.*] Do you happen to know what was the condition of life which we read of historically, when we read of men being sent to the plantations?—Many of them were sent out, I believe, bound to render service to certain contractors, which contractors could sublet their services to others, until they had earned their freedom; but my knowledge on the subject is very imperfect.

434. As far as you know, it was rather servile labour than what we should call peculiarly transportation?—Yes.

435. Is there any reason to believe that in our West Indian colonies, and in North America, any large portion of the white population originated in servile labour?—I do not remember the instances.

436. It appears to me that you wish to draw a distinction very clearly between servile labour as a punishment, and transportation?—Yes.

437. You wish to regard transportation not only as connected with the punishment of the criminal, but as connected with a certain state of society in which the criminal is placed, and of which he is to form part, after his sentence has expired?—Yes.

438. Your objections therefore to transportation would not be applicable to cases of mere imprisonment in distant countries?—No; the same objections would not apply to that.

439. First of all, with regard to transportation, do you believe that the disgust in our colonies at transportation, as distinguished from mere imprisonment, is now so entirely rooted that there is no hope, under any circumstances, of its disappearing?—I am convinced of that; it has taken firm root amongst them. It began as a natural feeling in society, a social feeling, and one amongst the parents of families, but it has since that become a political passion; it drives them to the idea of rebellion to think of convicts being sent.

440. Are we authorised to suppose that a political passion of that kind is likely to be permanent?—That is a question which, in its general form, will be better judged of by a politician than by myself.

441. But so far as you can judge from your own experience, you deem it to be so?—So far as I can judge from my own experience, political passions are much more lasting in the relation between a colony and the mother country than in the case of different parties within the same territory.

442. When you talk of this as a political passion, do you not think there has been a certain national pride in the matter connected with the particular relation between the colony and the mother country, which perhaps might disappear now that the independence of the colony is more fully recognised?—I think that there is a variety of causes which render it certain that on the eastern side of Australia the colonies will never again be willing to receive convicts. In the first place, there is now a very large working population; they look with jealousy upon the introduction of other labourers who are to bring down the price of industry. That, I think, is one strong motive which will always remain. Then there is the feeling of pride to which the question alludes; they view it as a stigma that they are to receive our criminals. Again, there is a strong jealousy of having anything put upon them by authority from the mother country. All those feelings combined satisfy me that we shall never again see convicts willingly received in Australia. But as I should always prefer resting on some strong fact rather than merely offering my opinion, there is this circumstance, which it is material to mention, that in the colony of Victoria, so strong is the abhorrence of convicts that they are continually passing Bills, which at home appear of the most oppressive character, to prevent convicts, whose sentences have even been remitted, from finding their way to the colony. They actually throw the *onus probandi* upon a man to prove that he ought to be free; if they suspect him of being a convict the *onus probandi* is thrown upon him, and unless he can at once prove his free character he is shipped off or imprisoned, and put to hard labour.

443. Does that state of feeling apply equally to Van Diemen's Land?—I think there is the same character of feeling also in Van Diemen's Land; and in Van Diemen's

Diemen's Land they have in fact suffered much more from convicts than ever did Victoria.

444. Where would be the difficulty of establishing other colonies in other parts of Australia, which would at least relieve us of some portion of our convict population, in the same way that the colony of Western Australia now does?—Upon that I have little to add to what I have submitted in former answers.

445. The objections which you have given would refer rather to the contingent difficulties than to any absolute impossibility of such an experiment?—I think that if England will both spend the money and incur the responsibility, it cannot be called impossible; that I admit; but I think that it is a very grave responsibility indeed.

446. Has not Ascension Island been used as a criminal settlement?—If there have been any prisoners there, I do not remember it; Ascension Island is usually occupied by the crew of a sloop of war.

447. Has it never been suggested that there should be a criminal settlement at Ascension Island?—I have never met with that particular suggestion. They have suggested islands to us all over the ocean; they have suggested the Island of Amsterdam, a small place which would hardly hold so many prisoners as Pentonville Gaol; but, as I said before, all such suggestions mistake the difficulty.

448. You were speaking about the difficulty of a tropical climate; was not a large portion of the labour of Dutch Guiana in the cultivation of that country performed by white men?—The mortality has been dreadful wherever it has been tried.

449. Do you see no advantage in transporting our criminals to a certain distance from this country, even if all we can obtain is their confinement there, till the time of the expiration of their punishment, and then bringing them back, rather than keeping them in prison here during that period?—I see no advantage, and I see many disadvantages; I think it is more costly, and less susceptible of efficient and good superintendence; I think that the establishments abroad for keeping convicts at hard labour, are only justifiable and expedient when you have some public works which it is material to execute by convict labour. Now that condition does strictly apply both to Bermuda and Gibraltar; I think therefore that the establishments at those two places are proper. At Bermuda it would be quite impossible to obtain free labour to execute works which are of national importance; at Gibraltar also it is very difficult to get good free labour; but I do not think that Great Britain gains much in the disposal of its criminals by the existence of those places.

450. Mr. *B. Denison.*] Does not that labour cost this nation very dear?—No, I think not. The officers make calculations, by which they endeavour to show that the prisoners cost nothing. They declare that the value of their labour, in the course of a year, is more than the cost of maintaining the establishments. I should look with a little doubt upon those calculations; but I do not think that they cost more than free labourers would.

451. At all events, all those prisoners come back to England?—They do.

452. And therefore, as regards England, it is the same thing as if they were at Pentonville during the time?—Yes; as regards the disposal of criminals, it is the same thing as if they were at home. As regards the execution of public works, it may be a convenience.

453. Your mind is clearly made up that there is an end to transportation, as regards the question of getting quit of the criminal?—I am afraid so.

454. Have you turned your attention at all to the manner in which criminals may be reasonably disposed of in England?—I have thought a great deal about it; but I do not feel that I should be warranted in intruding upon the Committee on that subject. I am no authority upon it at all.

455. Have you ever read the evidence which was given upon Mr. Pearson's Committee on Prison Discipline, some few years ago, where he proposed the plan of prisoners supporting themselves?—I remember hearing Mr. Pearson's views, and I knew Mr. Pearson, but I made no study of his proposals.

456. Is it not clear, that as you cannot transport these criminals, it is more than ever, in your opinion, the duty of the Government and of Parliament to try to provide some means of giving them employment which will qualify them for their return to society, as to society they must return, according to your view?—It appears to me that two or three things have now become more incumbent than

*T. F. Elliot*, Esq.

21 April 1856.

ever on Government and on society. First of all, it has become more especially our interest (as it was equally our duty before) to try to diminish the sources of crime; to try to render the whole number of criminals less. This is to be done by general good government, and perhaps by more education. In the next place, it seems to me that the instinct of the public has led it aright in supposing that you should, as far as possible, try to reform juvenile delinquents. They are the beginners. And in the third place, of course prison discipline must become more than ever material to us, when the prisoner by-and-by will be at large in our own country.

457. Have you turned your attention at all to the question of juvenile reformatory institutions?—I have heard and read about them with great interest; the working of them is admirable; the controverted point, as the Committee are well aware, is whether or not it will eventually lead parents to wish their children to commit small offences, in order to get them into one of those institutions.

458. That may be one of the evils, but if you reformed the child, he would be a better member of society?—Clearly.

459. So that it would not be all lost?—Certainly not.

460. Can you devise any better scheme, under existing circumstances, than the general establishment of reformatories for juvenile offenders with reference to the question that we have before us, as to the manner in which we are to deal with convicts?—They are extremely good as far as they go; but I think that you will require a great variety of concurrent measures, in order to do all the good that is possible.

461. Mr. *M. Milnes.*] Do you happen to recal to your mind any of the circumstances connected with the way in which colonists have been willing or unwilling to receive, I will not say young criminals, but young persons who have fallen under the laws?—There were small numbers of juvenile offenders sent to Western Australia at a date anterior to their asking for regular transportation. For a little while it seemed to answer pretty well, but they ended by asking to receive no more. Then some 20 or 30 years ago, there was a Philanthropic Society in England which sent out some children to the Cape; the experiment answered very ill; the boys complained of ill-usage; parents at home said that their children had been taken away unknown to them, and that experiment also fell to the ground.

462. At the very time of the great excitement on the subject of transportation at the Cape, did they not draw some distinction between juvenile offenders and other criminals, and express a willingness to receive juvenile offenders?—I am not aware of their having made the distinction. I cannot answer for the private opinions of the inhabitants of that country; but I do not remember any public proceeding in which they drew the distinction.

463. Would you extend your principle as to the utter impossibility of transportation so far as this, that you think there is no present colony to which we could hope even to promote the emigration of our juvenile offenders?—I think it might be going too far to give up all hope upon that subject; but this I would earnestly recommend, that if ever it be thought of to send juvenile offenders to any of these colonies, fair notice should be given beforehand, and a consent obtained, if possible, from authorities entitled to speak for the colony. I am confident that a contrary course would excite feelings of pride and distrust in the colonists, and would render the measure much more liable to defeat.

464. Mr. *Adderley.*] In giving us the history of transportation, you began very properly with New South Wales, and said that there was nothing before but very irregular transportation to North America. Do you recollect the circumstances when North American independence suddenly stopped that outlet for our convicts?—The event was just contemporaneous with the foundation of New South Wales.

465. New South Wales was commenced by that sudden stoppage, when something like 10,000 convicts were collected on the Thames in consequence, and London was frightened?—Yes.

466. I understand you to say, that you consider that the experience since, together with the altered circumstances of the world, render any repetition of such a resource impossible?—Any successful repetition is so highly improbable, that it may almost be called impossible.

467. The chief alterations in the circumstances of the world increasing the difficulty

difficulty are, that there are now fewer places unoccupied in the world, and that locomotion is so much increased?—Exactly so.

468. The increase of civilised governments and free constitutions all over the world, of course, increases the difficulty still more?—Certainly.

469. Do not you consider that our colonies, which now have free constitutions, are especially less likely to be inclined to receive convicts than they were before?—Certainly.

470. Besides the national pride which has been roused, which shows no symptoms of diminution?—That is the fact.

471. When you stated that there was at first an expression of annoyance from New South Wales at the Report of the Committee of 1837 against transportation, what was the class of men in New South Wales who expressed that annoyance?—To the best of my recollection the legislature itself; and there were public meetings on the subject.

472. What should you say was at the bottom of that feeling of annoyance at the Report against transportation?—I think that partly their love of their country may have been wounded by such a picture of its condition, and that partly they may have disliked losing the material advantages which they derived from the system of assigning the convicts.

473. Were not all those who so remonstrated large gainers by the Government expenditure in New South Wales upon the convict system?—They were gainers either by the Government expenditure or by having the cheap services of convicts.

474. Referring to your history of transportation, which may be divided into three periods, the assignment system, the probation system, and Lord Grey's system, in each of which transportation has a different meaning, are you of opinion that all those three kinds of transportation it would be equally impossible to revive?—I think so.

475. Whether in the qualified form as exiles, or as in the last period, when it was considered a treatment subsequent to punishment upon the completion of the penal treatment at home, still you consider that mode of qualified transportation equally impossible to be revived?—I think that it would be so, and I have quoted the example of the extraordinarily stringent measures passed in the colony of Victoria against the arrival of any men who had ever been convicts.

476. When you state that neighbouring colonies took up the opposition which was first made by certain Australian colonies, do you not conceive that colonies have not only an interest in stopping transportation to themselves, but only a slightly less interest in stopping transportation to neighbouring territories?—It is perfectly true that they are liable to receive the overflowing of liberated convicts from any adjacent convict settlement.

477. Will you state the distance of the chief town in Moreton Bay from the capital of New South Wales?—It is about 600 miles, I think, from the town of Sydney to the town of Brisbane, in Moreton Bay.

478. What is the nature of the country unoccupied, which lies between the two districts of New South Wales proper, and Moreton Bay?—The two are contiguous.

479. Is there much unoccupied country?—No; after the settled country in the northern parts of New South Wales proper, there is a succession of downs and pasture lands.

480. The passage, then, from one to the other, would be perfectly easy by land?—Quite easy.

481. And still more easy by sea?—Still more.

482. About what is the distance of the proposed site of North Australia from Sydney?—The boundary was not much further off than the town in Moreton Bay which has just been mentioned.

483. New South Wales, therefore, may be considered justified in expressing an interest in North Australia not being made a convict settlement?—Undoubtedly; it is impossible that North Australia should be made such a settlement without a very early influx of liberated convicts into New South Wales.

484. Do you consider that if England took the step of separating Moreton Bay from New South Wales for the purpose of a convict settlement, there would be very violent resistance in New South Wales to such a proposal?—I should anticipate very strong opposition. But I ought to add that the separation of

*T. F. Elliot*, Esq.

21 April 1856.

Moreton Bay has been advocated on other grounds and for other purposes, and upon this I offer no opinion.

485. You stated that in proposing the formation of a new colony for the purpose, the cost alone would be sufficient to deter us?—I did.

486. Do you not consider that even where the cost is less, as we may suppose from some recent experience it may become, those colonies which are less expensive in formation would be still less likely to consent to being made convict settlements, the self-supporting nature of a colony being rather in proportion to the superior class of people forming it? I would take the instance of Canterbury Colony, which I suppose has cost less than any other colony in foundation; do you not suppose that the very fact of the cost having fallen upon private enterprise would render the colony less likely to consent to being made a convict settlement?—It certainly would not render it more likely. I have no doubt that they would be quite as opposed as all the other Australian colonies have been to this system.

487. You have alluded to two attempts made to send juvenile offenders to various colonies; do you consider that that might be made, especially with the altered institutions of England with reference to juvenile offenders, a more possible and feasible plan than with adults?—I think that an indispensable preliminary would be fairly and openly to ask the colonies beforehand whether they would object.

488. Have you any reason to suppose that certain colonies would entertain such a proposal more favourably?—I am not aware of any reason recorded in public documents or proceedings.

489. With regard to the military pensioners in Western Australia to whom you have alluded, have any of them come home?—I have not heard of any.

490. In talking of the difference between the capacity of Western Australia to receive our convicts, and the numbers which we have sent out since the Act of 1853, would the number of transports which the terms of that Act would permit to be sent out, meet the full demand of Western Australia?—The whole number in 1854 was not quite 400, and would fall much short of the demand of Western Australia.

491. Therefore if it was desirable to meet the full demand of Western Australia the terms of that Act must be relaxed?—Yes.

492. *Chairman.*] So as to give the power of transporting for 10 years, or something of that kind?—Yes.

493. Mr. *Adderley.*] Even before the attraction of the gold drew off settlers from Western Australia, I believe that settlement never throve?—No, it did not.

494. Can you state what was the class of men of whom the first settlers consisted?—They were settlers in a very favourable position in life; many of them received enormously large grants of land upon condition that they should cultivate them, but the land was given in such profusion that nobody would labour. Every one sought to turn landowner on his own account, and nobody would work.

495. Then you consider that the first plan of that colony was faulty?—Decidedly faulty.

496. Are you aware that in the last blue book which has just come out, Sir Henry Young states, that in Van Diemen's Land, even though the convict system has ceased, yet it has produced so large a class of paupers and criminals that he considers this country bound for a long time to defray a considerable portion of their expenditure?—I am aware that there is such a despatch from the Governor.

497. With regard to the difficulty in forming any new penal settlement arising from the immense disproportion of men to women, have you any proposition to make by which that difficulty could be met?—No, I cannot see how the difficulty can be met. Convict women, as I have already explained, would not, I think, answer any good purpose. You could not seek to obtain free women of good character in order to pour them into a society composed exclusively of male offenders.

498. Have you ever considered the plan of sending the wives of married convicts out with them?—The Government have already sent out the wives of married convicts with a liberal hand. The moment that the Governor of a colony reports that a convict is able and willing to maintain his wife and family, the Government endeavour to send them out. But the difficulty is this, that some of these women themselves belong to depraved classes in society. Even their abode cannot be discovered. Some of them again have taken another husband, and are not willing to go out. The result is that, inasmuch as it is only a portion of male convicts who

who are married at all, and then there is a large proportion of their wives who are either not to be found or are not willing to go out, we get but a small contribution of free women from this source.

499. Can you state to the Committee what steps are being taken in search of a new convict settlement; what Captain Denham may be now doing?—I am aware that there is an exploring expedition to go to the northern shores of New Holland, but I have no reason whatever to believe that it is with the view of finding a site for a convict settlement.

500. In answer to questions as to substitutions for transportation, you said that every other civilized country had grappled with the difficulty; have you at all studied the modes in which they have met the difficulty?—Yes; I took some pains to gather reports from several countries in Europe. There was an excellent collection of Reports upon the prison institutions of most countries in Europe, made by Commissioners of Enquiry sent out by the French Government. Those Reports have now become of rather old date, but they might be worth referring to.

501. What was the date of them?—I looked at them four or five years ago; whether they were quite recent I do not know, but they were very instructive and interesting.

502. Lord *Naas.*] Where are they to be found?—I obtained them through the courtesy of the Foreign Office, which had a copy.

503. Mr. *Adderley.*] Have you any information as to the mode in which Prussia deals with the subject?—I have some general information. There is one curious fact which I have happened to see referred to in a work of, I think, a member of this Committee, which is, that it was a rule in Prussia to send a criminal to that province of the country which was the furthest removed from his usual haunts. This shows how a continental power was led by the force of circumstances to make the nearest approach to transportation of which its geography would admit.

504. Have you ever turned it over in your mind whether that gives any hint to a possible imitation in England of the system of what may be called internal transportation?—England is so small a country, and the means of locomotion are so easy, that it would be difficult to apply the system here.

505. Lord *Naas.*] You stated, that in 1853 there were 592 convicts sent to Western Australia from Ireland?—Yes.

506. I find that that is the only year in which any were sent from Ireland?—Yes.

507. Has transportation to Western Australia from Ireland then practically ceased?—I believe that the reason why so few convicts have hitherto been sent from Ireland to Western Australia is this: At the outset it was necessary that they should construct their buildings and execute other works, and therefore important to obtain men of a certain skill in labour. The prisons in Ireland, unfortunately, I believe, (I have no great knowledge of them) in former days were not very well organised, and the prisoners had not the same advantage of training that they had in England. I have been told that this is now being remedied in Ireland; but in the meantime, when it was necessary to seek for men who had undergone a previous course of training to labour, the English prisoners were resorted to in preference.

508. Do you know whether the colony objected to that batch of Irish convicts as being inferior to the class sent from England?—They did.

509. Therefore a difficulty exists, and is likely to exist, in extending to the Irish convict the same amount of transportation as you apply to the English?—The difficulty will exist until the Irish prisons are so organised that their inmates will be equally fit for useful labour.

510. You said that you did not see any difference between the establishment of a convict settlement upon one of the islands on the western coast, either of Ireland or of Scotland, and a convict establishment at Wandsworth, or close to London; do you not think that in such a place as Clare Island, on the western coast of Ireland, or in one of the Hebrides, a greater amount of liberty might be given to convicts who showed a disposition to reform, than could be given within the four walls of any establishment on the main land?—They might have greater liberty, but I do not see that they would be better able to provide for their own subsistence. The reason why I think this is, that we all know the immense distress which has been experienced by the free inhabitants of the Hebrides; if they could not live there, I do not believe that prisoners could do so by their own exertions.

*T. F. Elliot*, Esq.

21 April 1856.

511. Do you not think, that under proper instruction and conduct, the better class of convicts might be trusted in such an island as that to cultivate the land, and to be employed as agricultural labourers?—I still recur to the objection, that free men, living under free proprietors, could not exercise any industry which was remunerative in those islands.

512. You surely do not mean to say that those islands, properly cultivated, are not capable of supporting a very large population?—They were incapable of supporting the population which they held.

513. Because that population, from the force of circumstances, depended upon a certain sort of food, which food was removed by the visitation of the Almighty, and, in fact, ceased to exist. You are aware that until the potato disease occurred, there was never any difficulty in obtaining food for the population in the Western Islands of Ireland, and on the Western coast of Scotland?—The Committee must be aware of the extreme destitution in the Western Highlands and Islands, long before the potato disease was known.

514. Do you not believe that it would be a great improvement of our present system of punishment if you could hold out to the convict a greater incentive to reform?—Certainly.

515. Do you think that that could be done in any better way than by giving a hope, even to those who are sentenced to long terms of transportation, of a greater extension of liberty?—That would be the best plan.

516. That could not be done in this country, except by the ticket-of-leave system, and returning them upon society?—That is the fact.

517. Therefore if agricultural labour was compatible with restricted liberty, it might be held out as an inducement to reformation?—Yes.

518. With regard to the military pensioners, have you any reports of the position and conduct of the military pensioners who have been sent to Western Australia. You stated, I think, that 1,476 military pensioners and their families had been sent by the Government to Western Australia?—Yes.

519. Can you give the Committee any information as to what position those people are in now, whether they are well to do in the world, and whether they are making good settlers?—To the best of my belief they are doing well.

520. Have they become employers of convicts to any extent?—I do not believe that they have prospered sufficiently for that purpose. On the contrary, many of them are very glad to be employed, at a small rate of pay, in guarding the convict prisons.

521. Do you think that in future, under different circumstances, military pensioners, who receive small grants of land in a colony, might become eventually employers of convict labour?—I am afraid not. We have rather a large experience now of military pensioners as settlers. A great many were sent to New Zealand. Some were sent to the Falkland Islands; and, although they are able just to live in tolerable comfort, we do not hear that any of them are amassing wealth. An old soldier makes but a poor farmer.

522. Do you not think that a better class of military pensioners might be sent to the colony than has hitherto been sent?—We should have a larger choice now; but at the end of the last European war many discharged soldiers and pensioners were sent to the colonies, and their settlements have always been very slow in progress. They have generally been behind the mass of settlers in the colony.

523. Then you think that it would be a hazardous experiment to combine transportation with a large emigration of military pensioners to the same place in a new colony?—I think that it would be a hazardous experiment.

524. For instance, the Falkland Islands have been spoken off; do you know whether the climate and other circumstances of the Falkland Islands would enable a population such as I allude to, to raise sufficient means for their subsistence?—I think they could barely raise the means for their subsistence, and no more; the Falklands constitute a very poor and languishing settlement; the old soldiers there just live, and no more.

525. What does that arise from?—It is an inhospitable climate; extremely boisterous; indeed, I remember one of the few advocates of the Falklands whom I ever met, told me that he believed some products would grow very well, if the wind did not blow them down as fast as they came above ground.

526. Do you know whether corn will grow there?—It must be carefully sheltered; it must grow behind a wall.

527. Even

527. Even in the valleys of the Falkland Islands?—I am afraid of entering so far into particulars. *T. F. Elliot*, Esq.

528. Mr. *J. Wynne.*] With regard to the inferiority of the Irish prisoners, do you consider that that arises so much from prison discipline, as from there being a greater number of artizans among the English convicts than among the Irish?—I would hardly undertake to pronounce upon the cause of the difference; but I earnestly hope that I may not be supposed to have said anything disrespectful or unkindly of Irishmen in what I have mentioned. 21 April 1856.

---

*Lunæ*, 28° *die Aprilis*, 1856.

MEMBERS PRESENT:

| | |
|---|---|
| Mr. Baines. | Mr. Massey. |
| Lord Naas. | Mr. Beckett Denison. |
| Mr. Adderley. | Mr. Deedes. |
| Mr. Wickham. | Mr. Monckton Milnes. |
| Mr. John Wynne. | Mr. Ker Seymer. |

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

---

Captain *Donatus O'Brien*, called in; and Examined.

529. *Chairman.*] WHAT office do you hold?—Director of Convict Prisons in connexion with Colonel Jebb, the chairman of the department, and Captain Whitty, the other director. Capt. *D. O'Brien.* 28 April 1856.

530. What is your own peculiar department?—To superintend the prisons where prisoners are confined in separate confinement in the first stage of their punishment as convicts, together with the superintendence of Parkhurst Prison, and the superintendence of Brixton Prison, where female convicts are confined.

531. Can you give the Committee information as to the number of convicts on the 11th of March 1856 in the convict prisons in England?—I can.

532. You have your information made up to that day, I believe?—I have. There were then in separate confinement 1,716 male convicts. I am speaking now of male convicts only, not of female convicts; and I do not include Irish convicts. In the public works prisons there are 3,729. Invalids in "Stirling Castle" hulk and at Dartmoor Prison, 1,155. At Parkhurst there were 383 juvenile prisoners sentenced to transportation and penal servitude; making a total of 6,983 male prisoners sentenced to transportation and penal servitude.

533. Which are the prisons that you call public works prisons?—The hulks at Woolwich, Portsmouth Prison, and Portland Prison, to which prisons convicts are sent after having passed a period varying from nine months to twelve months in separate confinement.

534. In what prisons do they pass that first period of separate confinement?—Milbank Prison, Pentonville Prison, Wakefield Prison, and Leicester Prison. Until very lately, several prisoners were confined in other prisons, but I have not mentioned those other prisons, because the numbers are reduced now to very few.

535. Are those prisons which you have enumerated all that are at present in use for that purpose?—Yes.

536. Do you no longer rent cells at Leeds, Wakefield, Northampton, Bath, Reading, and Bedford?—All those prisons have been given up, or are in course of being given up, with the exception of Wakefield and Leicester; the numbers are reduced to two or three or four in each place, and when those are taken away, no more will be sent.

537. Will you just state again the prisons which will be retained for that purpose when your arrangements are complete?—Milbank will be retained, capable of holding 1,100 prisoners; Pentonville will be retained, capable of holding 560; Wakefield will be retained, to hold 400 prisoners; and Leicester will be retained, to hold 115 prisoners.

 538. When

Capt. *D. O'Brien.*

28 April 1856.

538. When you speak of Wakefield and Leicester being retained, you mean that you will continue the practice of renting, on the part of the Government, certain cells in those prisons?—Yes.

539. Can you now give the Committee information as to the number of licences issued in the several quarters of years, from the 1st of April 1854 to the 31st of March in the present year?—Yes.

540. What are these licences?—Licences which are commonly termed tickets of leave.

541. Licences or tickets of leave?—Yes; in the quarter ending June 1854, there were 480 licences issued; in the quarter ending September 1854, there were 551; in the quarter ending December 1854, there were 550; in the quarter ending March 1855, there were 433; in the quarter ending June 1855, there were 761; in the quarter ending September 1855, there were 550; in the quarter ending December 1855, there were 694; in the quarter ending March 1856, there were 660; making a total of 4,679.

542. Have you a statement of the number of licences issued previously to April 1854?—Yes, they amounted to 649; making a total of 5,328 licences issued to the 31st of March 1856.

543. Have you a statement of the numbers of licences revoked within those same periods?—Yes. In the quarter ending June 1854, there were 8 licences revoked; in the quarter ending September 1854, there were 2 licences revoked; in the quarter ending December 1854, there were 12 licences revoked; in the quarter ending March 1855, there were 19 licences revoked; in the quarter ending June 1855, there were 28 licences revoked; in the quarter ending September 1855, there were 28 licences revoked; in the quarter ending December 1855, there were 28 licences revoked; and in the quarter ending March 1856, there were 55 licences revoked. Previously to June 1854, there was one licence revoked; making a total of revocations, up to the end of March 1856, of 181. I may say that in the Return which was handed in by Mr. Waddington, the number which he gave was 179, but he took his numbers up to the 11th of March. In order to make the comparison, which I shall be able to make, I have taken the numbers up to the end of March 1856; my total is 181, his total is 179.

544. Mr. *B. Denison.*] You say that there were 480 licences granted in the first quarter, and eight revoked?—Yes.

545. And in the second quarter there were 551 granted, and two revoked?—Yes.

546. Do you mean that two were revoked of those 551, or of the whole number then in existence?—I do not mean that two out of the 480 were revoked, but I mean that in that quarter, ending June 1854, eight licences were revoked.

547. Take the second period; when there were 551 granted, two appear to have been revoked?—Within the same period.

548. Are you able to say whether the two which were revoked belonged to the 551 that were granted in the second quarter, or might they be two of the 480 which were granted in the first quarter?—I do not know which quarter they belonged to.

549. I will take the sixth quarter, when 28 were revoked; have you any means of knowing whether those 28 which were revoked, belonged to that particular quarter in which they had been granted, or whether they belonged to some previous quarter?—They partly belonged to the quarter in which they were revoked, but the majority of them belonged to previous quarters.

550. *Chairman.*] Can you give the Committee information, showing a comparison of the discharges in 1854 with revocations in corresponding periods of 1855?—Yes; in the quarter ending June 1854, there were 480 discharges; in the quarter ending June 1855, there were 28 revocations; in the quarter ending September 1854, there were 551 discharges; in the quarter ending September 1855, there were 28 revocations; in the quarter ending December 1854, there were 550 discharges; in the quarter ending December 1855, there were 28 revocations; in the quarter ending March 1855, there were 433 discharges; in the quarter ending March 1856 there were 55 revocations; making a total of 2,014 discharges in the year ending March 1855, and 139 revocations in the year ending March 1856; the revocations in the year ending March 1856 bearing a proportion

tion of 6¼ per cent. to the discharges which had taken place in the previous year. The reason why I compared these was, that in going through the different revocations, I found that in the revocations which took place in 1856, the great majority consisted of prisoners who had been one year and less than one year discharged on licence. Of the 139 revocations which I have mentioned as having taken place in the year ending March 1856, 109 were in respect of prisoners whose licences were revoked within 12 months after their discharge; that is to say, the prisoners whose revocations took place in the year ending March 1856, bore a proportion to the discharges for the year ending March 1855, of about 5½ per cent. It is difficult to put the numbers in any way which will give an accurate per-centage of the revocations that take place in one period with respect to prisoners who may be discharged in a corresponding period. For instance, the number of discharges in the first six months, that is to say, from the 1st of October 1853 to the 31st of March 1854, were 640; and up to the present time, covering a period of from two years to 2½ years, the number of licences revoked are 29, being equal to about 4½ per cent. Hence of those that were discharged in the first six months there are only 4½ per cent. returned; whereas, in the year ending March 1856, 5½ per cent. of the discharges of which had been granted within 12 months previously, were revoked. It is clear that it is very difficult to show any exact per-centage of revocations. The returns of the convicts who have fallen into crime, and who have been re-sentenced, are at the Home Office; we have not them in our office. There were 422 men discharged with licences stated by Mr. Waddington as having fallen into crime, including the 179 revocations which he mentioned, or, as I have it, 181 revocations. I may say that it is scarcely safe to estimate proportions when the actual figures may be obtained; but assuming an analogy between the periods when revocations took place and when the remaining 240 were sentenced, we do not exceed an estimate of more than 12 per cent. of the numbers who have fallen into crime after having been discharged. I do not wish to convey the idea that 12 per cent. will represent all those who have actually fallen into crime; far from it, because there are a great many who have fallen into crime of whom we know nothing. For instance, at my last visit to Wakefield, I spoke to a prisoner in the usual way, asking him if he had anything to say, and he turned to me and said, "Why, Captain," so-and-so, and so-and-so. I asked him how he knew that I was a Captain; he laughed, and said, "Oh! it does not signify." I asked the warders if they knew that the man had been a ticket-of-leave man; they said they suspected he had been so, but they were by no means sure. It was clear he had been a ticket-of-leave man, and knew who I was. But if I guess the undiscovered culprits at eight per cent., and I think I allow a very large margin, we then have only 20 per cent. known and unknown relapses. It however seems to me that fixing the per-centages on the smaller figures may convey a correct idea of the criminality, but it does not convey to the public mind a correct idea of reformation; 20 per cent. representing the criminality may appear rather startling, but 80 per cent. representing the reformation appears to me to be satisfactory; and I would remark, that a system which turns four-fifths of our worst population into respectable citizens is more successful in its results than I, at any rate, could have anticipated three years ago.

551. Mr. *B. Denison.*] Do you think that you are quite safe in using the word "reformation" as applied to the 80 per cent.?—I use the word "reformation" in the sense that the persons who are so discharged may be considered so far reformed as to conduct themselves fairly and decently.

552. Is it not rather a fairer inference that you know nothing against them; if you say that they are reformed, you ought to be able to prove that they are really leading an honest life; but according to the notion on my mind, all that you can say of them is this: that you have no further knowledge of them after they get out of prison; you do know, of course, as to those whose licences have been revoked, and the others who have been reconvicted, which number you put at 20 per cent.; but I should be very glad to be convinced that the other 80 per cent. are really reformed; it is rather more a negative quality than a positive quality; however, it is a mere matter of opinion; I suppose what you mean is, that you know nothing against them?—I assume that 12 per cent. are known to have actually fallen into crime; I assume 8 per cent. additional as the outside of those who may have fallen into crime, but of whom we know nothing; the remaining 80 per cent. would therefore represent the men who have been discharged on licence, and

Capt. *D. O'Brien.*

28 April 1856.

have not fallen into crime, and to that extent, and to that extent only, would I apply the word "reformation."

553. Mr. *Adderley.*] You should not say "who have not fallen into crime," but who have not been detected again in crime for a twelvemonth since their release; does it amount to more than that?—My explanation is this, that, taking all those who have been reported to the Home Office, including the revocations, which may amount to about 12 per cent., about eight per cent. more of whom we know nothing, may have fallen into crime; undetected culprits: leaving 80 per cent. who have not fallen into crime at all, known or unknown.

554. Mr. *B. Denison.*] Even the eight per cent. is imaginary?—It is.

555. Then you might as well take it at 88 per cent.; you certainly make an allowance of eight per cent. for parties supposed not to have been known, and there you stop; and you then assume that there are 20 per cent. of the parties who have been in prison who, in one way or another, have relapsed. You have used the word "reformation," but I should be glad to find that that word was really applicable to them; I think all that you can say, from your evidence at all events, is, that you know nothing against them; do you know anything for them; is any considerable number of them known to be in wholesome and healthy employment?—I merely estimated the number; that estimate is a guess, I acknowledge.

556. Mr. *M. Milnes.*] Have you any other means of judging as to what you call reformation, except the plain fact of these persons coming again under the operation of the law?—Nothing but that.

557. But are not these persons submitted to a certain surveillance on the part of the police?—Not to any great extent.

558. Mr. *Deedes.*] When you have been talking of discharges throughout, it applies to discharges under tickets of leave?—Yes.

559. *Chairman.*] Do you hold in your hand a copy of a letter addressed by Colonel Jebb to the different convict prisons, upon the subject of the gratuities paid to prisoners on their discharge?—Yes; it is a letter dated 4 January 1856.

560. Will you read it?—"Gentlemen: With reference to the circular, dated June 1854, relative to the mode of paying gratuities, &c., to convicts released on licence, I have to acquaint you, that the Secretary of State has been pleased to authorise the adoption of the following scale for their future payment; viz., 5 *l.* and under to be paid on discharge; above 5 *l.* and under 8 *l.*, 4 *l.* to be paid on discharge, and balance at the end of two months; 8 *l.* and under 12 *l.*, half to be paid on discharge, and half at the expiration of three months; 12 *l.* and under 20 *l.*, 5 *l.* to be paid on discharge, half of the remainder in two months, and balance at the expiration of three months more; and I have to request that you will make arrangements for carrying the above scale into operation."

561. Can you give any information to the Committee on what has been done upon the subject of these gratuities, as to the total amount for one year?—The total amount for one year has been 12,369 *l.* gratuities paid to convicts discharged with licences.

562. Have you any further information upon that point?—The average per head has been 6 *l.* 2 *s.* 9 *d.*

563. Mr. *Wickham.*] What is the greatest sum which any convict has been paid?—I am not able to tell you.

564. Mr. *Adderley.*] How are those sums of money earned by prisoners?—According to the amount of work which they have done.

565. What is the system pursued in that respect?—If you ask the question of my colleague, he can give you the information better than I can, as the prisons where public works are carried on are not under my superintendence.

566. Is the payment by job or by time?—It is not payment by job.

567. *Chairman.*] When you speak of your colleague to whom you refer us, do you mean Captain Whitty?—Captain Whitty.

568. Can you give the Committee information as to the periods of discharge with licences relative to the lengths of the sentences?—I can; but as questions of detail will possibly arise upon that point, I would prefer leaving that also, if the Committee please, to Captain Whitty to answer.

569. I believe you mentioned Parkhurst prison as being one of the prisons under your own immediate superintendence?—Yes.

570. For what description of prisoners is that prison appropriated?—For prisoners

prisoners sentenced to transportation, at the age of 16 and under, and for prisoners sentenced to between one and two years' imprisonment; the latter description of prisoners has only very lately been sent there.

571. For how long has it been the practice to send that latter description of prisoners to Parkhurst?—Within the last year.

572. Mr. *Deedes.*] Of what age is that description of prisoners?—The same age; 16 years and under, when sentenced.

573. *Chairman.*] What are the present numbers in Parkhurst?—On the 6th of April there were 423 prisoners, of whom 36 were sentenced to the shorter sentences; the remainder were sentenced to penal servitude, or transportation.

574. Mr. *Adderley.*] Can you state how many were sentenced to penal servitude, and how many to transportation?—I have not a return showing that, but I could prepare it if required. The numbers have been very much diminished in the last few years. In 1850, the daily average was 620; in 1855, the daily average was 482; the present number, as I have stated, of those sentenced to penal servitude and transportation is only 383. Therefore there has been a successive diminution of numbers of those sentenced to penal servitude and transportation from 1850 down to the present time.

575. *Chairman.*] Can you state to the Committee the system of treatment adopted at Parkhurst, with respect to the prisoners who are sent there?—As soon as they have gone through their various grades, and have been a certain time in the first class, they receive their licences, provided they have passed through the regular time that adult prisoners have to pass through. Every prisoner received into Parkhurst remains four months in the probationary ward; in the third class he remains four months; in the second class he remains six months; in the first class he remains 10 months; and then, provided he has passed through the periods which are allotted to adult prisoners, in respect of their sentences, he receives his discharge; that is to say, a prisoner who is sentenced to seven years' transportation is discharged at the end of three years, provided he has been in the first class 10 months; a prisoner sentenced to 10 years' transportation is discharged at the end of four years, provided he has been the same period in the first class.

576. Mr. *Adderley.*] Is he discharged altogether?—He is discharged on licence.

577. *Chairman.*] What are the rules under which prisoners are discharged upon licence; have you those rules with you?—I have no special rules to offer to the Committee beyond that which I have been stating.

578. Mr. *Adderley.*] Do you mean that a boy now sentenced to seven years' transportation is kept three years in Parkhurst, and then discharged on licence?—Provided his conduct has been good.

579. If the sentence is transportation, still he is discharged on licence?—Yes. No prisoners have yet been discharged who have been sentenced to penal servitude.

580. Mr. *B. Denison.*] The Act does not allow that?—The Act allows it; but none have been discharged.

581. Mr. *Adderley.*] Then all the cases which you have alluded to were cases under sentence of transportation at the time of the passing of this Act?—Yes.

582. *Chairman.*] They were persons actually under sentence of transportation at the time the Act was passed?—Yes.

583. What are the gratuities which are given to the prisoners at Parkhurst upon their discharge under licences?—Prisoners who are in the first and second classes are entitled to certain gratuities according to their labour. For instance, a prisoner in the first class, who is in the general ward, is permitted to have 6 *d.* a week, and if he is in the junior ward he is permitted to have 4 *d.* a week. In the second class he is permitted in the general ward to have 3 *d.* a week, and in the junior ward 2 *d.* a week; and when he is discharged, the sums that he may thus have obtained are paid to him, under regulations made for that purpose; but he gets nothing before he is discharged on licence.

584. What are the regulations issued?—The regulations for paying those gratuities are the same as those I have handed in to the Committee in the circular letter of Colonel Jebb. As yet no second instalment has been paid; the sums have been too small.

585. What is done with respect to clothing a person of that description?—A lad gets a good suit of liberty clothing, and two shirts, his Bible, and his Prayer Book.

586. Mr. *Deedes.*] To enable him to go out?—Yes. The usual practice, when there

Capt. *D. O'Brien.*

28 April 1856.

there are several prisoners to be sent to London, or beyond London, is to send an officer with them to London, who sees them to their homes in London; or if they have to go further, he puts them into the train, and sends them off, but does not go further than London with them.

587. Mr. *Adderley.*] Suppose they have no homes?—There are some prisoners who have no homes and have no friends to receive them. At first these prisoners were not recommended to the Secretary of State for discharge when their time came; they were detained in hopes that something might turn up in their favour; but eventually it appeared very hard upon these prisoners that they should be detained in prison, simply because they had no friends to receive them. Each case was submitted to the Secretary of State, and in every instance in which a prisoner has been able to earn his own livelihood, though he has had no friends to receive him, the Secretary of State has permitted his discharge on licence.

588. Mr. *Deedes.*] Where has the prisoner under such circumstances been sent; would he be delivered in London also?—He would be delivered in London, if he had been convicted in London.

589. How if otherwise?—He would be delivered at the place where he had been convicted.

590. *Chairman.*] He would be sent into that county?—He would be sent into that county.

591. Mr. *Adderley.*] In those cases where a prisoner without any home was detained by the Secretary of State, he was kept upon some proper work?—Yes.

592. Do you at once release those prisoners who have no homes now?—Yes.

593. And send them to the place where they were convicted?—Yes.

594. Mr. *B. Denison.*] Will you describe the practical operation of setting a young man at liberty who has no friends or home to go to. Take any place you like in the West Riding of Yorkshire. Supposing a boy has been committed from Leeds, and there are no friends to send him to, what would you do with that boy?—I had better describe what has been done with respect to boys sent to Leeds. More than one convicted at Leeds have been sent down to Leeds; but in those cases I have written to the governor of Leeds gaol requesting him to pay the boy his gratuity, to look after him, and endeavour to get him work; and at Leeds that has been done by the governor, Mr. Paige, in three or four different instances.

595. Is it your practice, when a boy has no home to go to, to send him to the governor of the gaol at the place to which he is to be sent, requesting him to look after him?—Only in cases where we know the governor of the gaol; but if a boy were going to another place where we did not know the governor of the gaol, he would be left to provide for himself.

596. Take Bradford, where there is no gaol?—He would be sent up to London in charge of an officer; the officer would see him into the railway train, and then we should possibly hear no more of him.

597. You would pay his fare to Bradford?—Yes; and give him a post-office order for the gratuity coming to him.

598. Upon the postmaster at Bradford?—Yes.

599. Then, so far, it would tend to insure his getting back to Bradford?—Yes.

600. And when he got back to Bradford, or any other place similarly situated, he would take his chance?—Yes.

601. There are but few places to which you could send a boy, or a young man, where there is a governor of a prison; I may assume that there are only two in the West Riding of Yorkshire; Wakefield and Leeds?—Wakefield and Leeds are the only two in the West Riding of Yorkshire, and we have sent to the governors of both those places.

602. With the exception of those two, parties are sent to the respective towns with a post-office order, to get a small amount of money from the postmaster and take their chance?—Yes; but in all these cases the boys have been especially reported as being able-bodied, and capable of earning their own living when discharged with licence.

603. *Chairman.*] And of good behaviour, I suppose?—They are not discharged with licences, unless their behaviour has been exemplary for a certain fixed time previous to their discharge with licence.

604. Mr. *Wickham.*] They are never discharged till they have been 10 months in the first class?—It is so.

605. Mr. *Deedes.*] On the subject of labour, you stated that certain prices, 6 *d.*, 4 *d.*, 3 *d.*, and 2 *d*, were paid for labour in certain classes; what description of labour is that?—Agricultural labour, tailoring, carpentering, smith's work, and brick-making.

606. The sum which they receive does not depend upon the amount of work done, but it is so much, according to the class in which they are?—The price depends upon the class which they may be in, and upon the report which the officer makes weekly of the individual's work; not as to the amount of work which the individual actually does, but as to his being generally industrious.

607. Mr. *B. Denison.*] Then it is a reward for general conduct?—Conduct is a considerable ingredient. I should have added, and, with your permission, will add now, that there is this difference between the periods granted to the governor to discharge prisoners with licences, after he has received the licences, on the public works and at Parkhurst. On the public works, he is bound to discharge the prisoner within one month after he has received the licence; but, in order to enable boys who have not friends to have inquiries made about them, or to enable the governor, or the chaplains, or myself to do anything for them, the Secretary of State has permitted the governor to hold the licence for three months after he has received it for the benefit of the boy.

608. Is there any agricultural labour pursued at Parkhurst to any great extent?—There are 60 acres under cultivation by spade labour.

609. How many persons work at it; the whole of these Parkhurst prisoners, I suppose, may be called upon by rotation to work at it; first of all, is the whole of the 60 acres worked by spade labour?—By far the greater portion of it is worked by spade labour.

610. How many prisoners may be devoted to that work?—Above three-fourths.

611. You have said that there are various handicraft works besides?—Yes.

612. Can you tell the Committee to what extent the prisoners are employed in agricultural labour?—Above three-fourths of the prisoners are employed daily in agricultural pursuits, provided the weather permits. On rainy days the boys are not on the land, but they are employed in the prison at tailoring and other in-door pursuits.

613. Have you any means of knowing whether they improve much respectively in any occupation which they are put to?—Yes, they do very much; they improve in carpentering; there are, however, very few that are carpenters; however, they improve in smith's work, but there are very few that are engaged in smith's work; the tailoring is very good; the shoemaking is likewise very good.

614. Do you employ many in shoemaking?—The whole of the shoes for the establishment, the shoes and boots for the officers, and a certain amount of work taken in from the neighbourhood, occupy them in shoemaking and bootmaking.

615. I suppose, then, it is thought that the employment of a shoemaker is a wholesome and desirable employment for them?—Yes.

616. Are you aware that there is no trade in the kingdom which is so much overdone as the shoemaking trade?—I do not know that; it may be so

617. Are you aware that there are more broken-down shoemakers in the different workhouses than from any other trade which you can mention?—I was not aware that such was the case. I am quite free to admit that very few of them get such a knowledge in handicraft as to support them in that handicraft after their discharge.

618. Mr. *Adderley.*] When the payments of the balances are made to the discharged prisoners, is any inquiry made at that time as to what the prisoner is doing?—There has been no second instalment paid from Parkhurst, and therefore such a case as you mention has not occurred.

619. Is there any rule as to what should be done in that case?—Yes.

620. What is it?—A certificate is required from the clergyman of the parish, from a magistrate or from other persons of respectability, before any second instalment is sent from the prison.

621. And so for further instalments?—And so for further instalments; that is the rule with respect to all convicts, adults, juveniles, and women.

622. How are such payments made?—By post-office order.

623. To the prisoner?—To the prisoner, he sending in a receipt.

624. Mr. *Deedes.*] Can you state the largest amount which has ever been

Capt. *D. O'Brien.*

28 April 1856.

received by any one prisoner?—To a juvenile prisoner there has been nothing paid over 5 *l.*

625. But he may have entitled himself to receive sums to the amount of 5 *l.*?—Yes.

626. In any instance would that be paid at once, or in all instances would it be by deferred payments?—In all instances it would be paid according to the circular which I have read and handed in.

627. Mr. *Adderley.*] Can you make any suggestions as to an improvement in the mode of discharging prisoners from Parkhurst?—It would be a very great improvement if there was any arrangement made for their being emigrated.

628. Supposing that impossible, can you make any suggestion of a more careful mode of turning them out in this country?—I am not prepared to offer any suggestion to the Committee.

629. *Chairman.*] Have you any information to give the Committee with regard to the prisoners who have been sent out on licences; I mean as regards their subsequent conduct?—There has been very great difficulty in the first place in procuring places for them to be sent to. The governor of Parkhurst Prison has been very active in the matter; and I hold in my hand a list of prisoners for whom employment was procured by him: "1. A. B., domestic servant. His master was highly pleased with him at first, but afterwards some difference arose; A. B. left his place and entered the Royal Navy, in which he is rated as an able seaman, and doing well. 2. J. L., seaman on board a collier brig; doing very well. 3. B. M., ditto, ditto; did very well till accidentally drowned in the Black Sea by falling overboard. 4. J. H., doing very well as a sailor; giving great satisfaction to his captain. 5. G. T., made three voyages to the West Indies in a mail steamer; behaved well, and had a good character; afterwards entered a militia regiment, in which he is now serving. 6. J. B., placed on board a collier on trial before apprenticeship; suffered grievously from sickness on the first voyage, and, with the captain's consent, left the ship at Shields, went to Edinburgh, fell amongst his former companions, and was apprehended and re-convicted. 7. J. M'L., placed on board a collier, left her, and entered the Royal Navy; deserted his ship, and was seen in Liverpool, apparently destitute. 8. R. C., placed on board a collier, left her, and entered the Royal Navy, in which he is doing well. 9. T. D., placed on board a sea-going merchant ship; last report good. 10. T. B., apprenticed on board a brig; giving great satisfaction to his captain, and well pleased with his duty; has repeatedly visited the prison." These prisoners had either no friends to go to, or their friends were so poor, and leading such disreputable lives, that the governor thought it far better to put them out in any respectable way than to send them adrift.

630. All the persons in that list are persons of that description?—Yes. I have a list of prisoners for whom employment was obtained by the chaplain to Parkhurst prison: "1. G. W., placed at work with a respectable shoemaker; could not earn enough wages; left his place, and went on board a collier. Made one voyage to Sunderland; left his ship there, and became a strolling singer in the streets; apprehended for felony; convicted and sentenced to penal servitude. 2. W. C., domestic servant; behaved well, and gave satisfaction to his master; a fellow servant told neighbours that W. C. had been a convict; he was so much annoyed, that he left his place and enlisted. He is doing very well in the army as an officer's servant. 3. J. R., domestic servant; has conducted himself very steadily and respectably, and has given full satisfaction to his master. Mr. Murray, the farm bailiff, being acquainted with the proprietor of some large brickfields in Berkshire, induced him to take three young men from Parkhurst into his employment; they, however, were very much disgusted with the conduct and language of their fellow-workmen, and wished to leave the place as soon as possible; one went home to his friends, and enlisted in a militia regiment; the second, I have not heard of since he left. The third wrote me word that he would stay where he was, till he could get some more respectable employment, though he very much disliked his associates. Schoolmaster Morris obtained employment for two prisoners on board ship: 1. J. M. is doing very well; about to sail now from Bordeaux for Valparaiso, having just returned to the former port from Martinique. 2. J. M. was doing well when last last heard of."

631. Mr. *Adderley.*] Who paid for the outfit and the apprenticeship of those prisoners?—There were no apprentice fees, so far as I recollect, but the outfit was paid out of the gratuity. Those boys who were going to sea were differently

ferently fitted out from those who were going to labour; for instance, instead of giving him a pair of corduroy trousers and a fustian jacket to labour in the fields, he got a good comfortable sea-jacket and a pair of blue trousers. I myself have taken a great deal of trouble with regard to several Parkhurst prisoners. I have notes of what I have done in the matter, and if the Committee wish it, I will read them. I took a great deal of trouble in 1854 at Liverpool among the shipowners. I saw five or six different gentlemen who were leading shipowners in Liverpool, and only one of those could give me any assistance; they disliked the notion of taking lads who had been convicts; they said that they kept their berths for the sons of their own people who were respectable, and that they did not like to take those who had been the reverse. However, one gentleman promised a berth for a boy, and he said that he would give a second a berth if he turned out well. Unhappily difficulties arose with respect to the sailing of the ships, and I have not heard anything more from him.

632. Were hands pretty plentiful at that time at Liverpool?—There was an average. I asked the question; there was no deficiency or the reverse. Several of the gentlemen connected with shipping at Liverpool said that they did not like the notion of taking boys from Government prisons when the Government refused at that moment to give them a hulk to put their own prisoners in; that was one difficulty. I then tried Manchester; but at Manchester a stipulation was proposed, that if the Manchester people took boys from other places, Manchester boys should be sent elsewhere; I had no power to make such a promise. The mayor, whom I saw, and two or three aldermen, said that they would be very glad to assist if they could, but this stipulation existing, no result was produced. I sent two boys to a gentleman who is well known, I have no doubt, to many Members of the Committee, Mr. Joseph Pease, once member for South Durham; he kindly took these two lads; their characters were good, and he treated them well; however, they soon left him; one, if not both, went on board ship at South Shields. I then taxed the philanthropy of a particular friend of mine, whose name may be also known to the Committee, Colonel Stobart, of Etherley, in the county of Durham, an extensive coal-owner, and I sent him, first and last, a dozen in different draughts; they got very good wages, and were very well treated; they gave a great deal of trouble; they were very dissatisfied, and they gradually disappeared, but no dishonesty was even suspected among them. I then picked out a promising lad for a cabinet-maker at Liverpool; the cabinet-maker said that if this lad behaved himself properly, and gave satisfaction, he hoped he would be the first of a succession of Parkhurst boys who might be sent to him; that he would take care that the other workmen knew nothing at all about him. I sent him down accordingly; he did well enough for three months, and then he left him, assigning some trifling reason; afterwards that boy got into a scrape, and his licence was revoked.

633. *Chairman.*] What sort of scrape; some offence?—Yes, he committed some offence; this was very unfortunate, as of course I could not ask the cabinet-maker to take any more; nor could I ask Colonel Stobart to take any more after the dozen whom I had sent him had left him. One lad I sent down to Bedford, and he has succeeded admirably, but he is the only one of those to whom I have had anything to say who has remained in his place; in fact, after their discharges with licence they will all roam; they will go upon what they term the tramp, and then it is great good fortune if they turn out well. This was the case in Van Diemen's Land, and it has been the case also in Western Australia; and I believe that that was the chief cause why Governor Fitzgerald refused to take any more of them in Western Australia.

634. Do you know that it was so?—I know from his despatch that Governor Fitzgerald refused to take any more. Place these lads, however, where you will in this country, they will contrive to get back to their former ground; that is the term they make use of themselves; but officers who have taken them to their homes, and lads whose licences have been revoked, have stated, that when they get home they are generally disgusted, and they cast about for a livelihood of some sort or another elsewhere. A few have come to me in Parliament-street, and have demanded work wanting me either to get them either into the Army or into the Navy; to get them anything rather than that they should lead a dishonest life. I believe the majority of them are disposed to lead an honest life, but when they begin to roam in the way I describe, it is quite evident that

Capt. *D. O'Brien.*

28 April 1856.

that there are great difficulties in the way of their becoming eventually steadily settled.

635. Lord *Naas.*] Are there any instances of their parents taking them back again?—A great many.

636. *Chairman.*] These boys of whom you have been speaking, about whom the governor interested himself, about whom the chaplain interested himself, and about whom you interested yourself, were boys, as I understand you, who had no friends to whom they could be sent?—Yes.

637. Mr. *Adderley.*] Are not the homes of boys of this class generally very wretched ones?—Very wretched.

638. In your experience, is not the wretchedness, and often the immorality of the home, the first cause of these children being thrown upon loose ways of life?—No doubt of it; and when they return to those homes, the first feeling is extreme and intense disgust.

639. Even the better habits which they acquire in prison would lead them in many cases to feel a still stronger disgust for their homes?—Certainly.

640. The love of excitement also is a characteristic of nine-tenths of these boys, is it not?—Yes; and that is increased by their having been so long confined in one place.

641. What was the nature of the employment, which in one particular case you mentioned, that Mr. Pease had put certain boys to who left him?—One lad was employed in rough carpentering work, and the other was employed in ordinary labour work.

642. There are certain classes of employment, which are the readiest modes of disposing of these boys, such as going out on ship-board, and kinds of life which are more according to their tastes, are they not?—Far more so than ordinary labour.

643. *Chairman.*] Have you a table with you, giving information relative to 151 licensed prisoners from Parkhurst Prison, during the four quarters ending respectively 31st March, 30th June, 30th September, and 31st December 1855, showing respectively the date of discharge, the date of information afforded, and particulars?—Yes.

644. Where do you get the information comprised in this table?—From the chaplain of Parkhurst, who has embodied it in his yearly report.

645. You have been speaking all this time of Parkhurst?—Entirely.

646. Will you put in that table?—

[*The Witness delivered in the same, which is as follows:*]

REPORT of INFORMATION received relative to 151 LICENSED PRISONERS during the Four Quarters ending respectively 31 March, 30 June, 30 September, and 31 December 1855, showing respectively the Date of Discharge, Date of Information afforded, and Particulars.

QUARTER ending 31 March 1855.

| Initials of Prisoners, and Date of Discharge. | Date of Information, and by whom afforded. | Abstract of Particulars from Letters, &c. |
|---|---|---|
| No. 1. W. P. (15 Aug. 1854) | 1 Jan. 1855; himself | Doing well in every respect. Contented and well paid for his labour. |
| No. 2. J. F. (6 Jan. 1854) - | 31 Jan. 1855; himself | Doing well. |
| No. 3. R. R. (3 Jan. 1855) | 12 Feb. 1855; himself | Requesting a certificate of character, so as to enable him to procure a situation; the certificate not to allude to his having been in Parkhurst Prison. Information afterwards received stated he was doing well. |
| No. 4. J. L. (19 May 1854) | 18 Feb. 1855; visited the prison officers. | Conduct satisfactory in every respect; has worked for the same master the whole time. |
| No. 5. G. T. (30 Nov. 1854) | 18 Feb. 1855; visited the prison, and remained a night with his old master. | Doing well and liking his employment. Had saved some pounds since his liberation. |
| No. 6. T. J. (3 Jan. 1855) - | 25 Feb. 1855; himself | He says he is doing well and liking his employment. |

| Initials of Prisoners, and Date of Discharge. | Date of Information, and by whom afforded. | Abstract of Particulars from Letters, &c. |
|---|---|---|
| No. 7. J. R. (19 Oct. 1854) | 28 Feb. 1855; by letters from himself and employer. | Conduct most satisfactory; his master is much attached to him. |
| No. 8. E. G. (6 Jan. 1854) | 1 March 1854; chaplain and principal schoolmaster. | Was cheerful and contented when seen by the chaplain and principal schoolmaster. Expressed himself satisfied with his situation. |
| No. 9. C. D. (22 Sept. 1854) | 1 Mar. 1854; himself | Doing well, and liking his employment. |
| No. 10. J. B. (9 March 1854) | 6 Mar. 1855; himself | At times out of work, and afraid he may be tempted to do wrong, therefore wishes himself back to this place in an honest way. Doing well. |
| No. 11. W. M. (21 Feb. 1855) | 6 Mar. 1855; himself | Was well received by his mother, who is comfortably situated. Looking out for work. |
| No. 12. T. P. (19 Dec. 1854) | 9 Mar. 1855; himself | Requesting a certificate of character so as to enable him to procure a situation; the certificate not to state that he had been a prisoner. Doing well. |
| No. 13. J. H. (9 May 1854) | 12 Mar. 1855; himself | He is still in good work, and doing well; has a house of his own; about to get married. |
| No. 14. T. R. (10 Mar. 1854) | 13 Mar. 1855; returned to this prison | Licence revoked. |
| No. 15. T. F. (10 Mar. 1854) | 13 Mar. 1855; T. R. No. 14. | Sentenced to 10 years' penal servitude for stealing. |
| No. 16. W. H. (21 June 1854) | 13 Mar. 1855; T. R. No. 14. | Sentenced to 10 years' penal servitude for stealing. |
| No. 17. W. W. (7 Dec. 1853) | 15 Mar. 1855; himself | Doing well. Has repeatedly visited Parkhurst. |
| No. 18. W. C. (18 Sept. 1854) | 15 Mar. 1855; employer, chaplain & others. | Conduct satisfactory in every respect, and has been in the same situation during the whole period. Helping to support his mother. |
| No. 19. C. P. (6 Jan. 1854) | 16 Mar. 1855; principal schoolmaster. | Had a contented staid appearance when seen by the schoolmaster. He is fully employed. |
| No. 20. J. R. (6 Jan. 1854) | 18 Mar. 1855; J. L. No. 4, by whom he is often seen. | Doing well. |
| No. 21. B. M. (1 July 1854) | 19 Mar. 1855; employer. | Conduct satisfactory in every respect; has been in the same employment the whole time, under the same master as No. 4. |
| No. 22. H. J. E. (11 July 1854) | 19 Mar. 1855; employer. | Conduct satisfactory in every respect; has been in the same employment during the whole period, with the same master as Nos. 4 and 21. |
| No. 23. W. L. W. (6 Jan. 1854) | 19 Mar. 1855; himself | A sailor boy, doing well. |
| No. 24. J. F. (14 June 1854) | 19 Mar. 1855; himself | Doing well. |
| No. 25. J. L. (6 Jan. 1854) | 19 Mar. 1855; himself | A most intelligent young man, who is very attentive to his business. Living with his parents. |
| No. 26. C. H. (13 June 1854) | 24 Mar. 1855; himself | Has gone to sea. |
| No. 27. G. B. (13 June 1854) | 24 Mar. 1855; himself | Doing well. |
| No. 28. R. C. (3 Jan. 1854) | 26 Mar. 1855; himself | Doing well. |
| No. 29. H. C. (3 Oct. 1854) | 19 Mar. 1855; himself | Conduct satisfactory. He has been in the same situation during the whole period. |

QUARTER ending 30 June 1855.

| | | |
|---|---|---|
| No. 1. W. W. (21 Feb. 1855) | 21 April 1855; himself and others. | In full employment. Doing well. |
| No. 2. W. M. (21 Feb. 1855) | 1 April 1855; himself | Working at his trade. Again asked for a certificate of character, so as to enable him to procure higher wages. |
| No. 3. G. W. (6 Jan. 1854) | 1 April 1855; returned to this place. | His licence has been revoked. He says he was only found trespassing. |
| No. 4. W. N. (21 Feb. 1855) | 4 April 1855; himself | Working at his trade, and doing well. |
| No. 5. J. C. (3 Sept. 1854) | 4 April 1855; himself | Doing well. |
| No. 6. J. B. (11 April 1854) | 6 April 1855; returned to this place. | Has been twice in prison for theft; consequently his licence has been revoked. He says he could not obtain employment on account of the severity of the winter. |
| No. 7. W. P. (15 Aug. 1854) | 10 April 1855; himself | Doing well. |
| No. 8. H. M. (19 Dec. 1854) | 10 April 1855; himself | Doing well. |
| No. 9. J. C. (14 June 1854) | 14 April and 24 May 1855; himself and Mr. Meadon, chief warder of Birmingham prison. | Sentenced to six years' penal servitude. He says he could not get work. |
| No. 10. J. W. (21 Feb. 1855) | 16 April 1855; himself | Doing well. |
| No. 11. C. R. (10 April 1855) | 16 April 1855; by No. 10. | Had been kindly received by his mother. Afterwards heard that he was doing well. |

Capt. *D. O'Brien.*

28 April 1856.

| Initials of Prisoners, and Date of Dischage. | Date of Information, and by whom afforded. | Abstract of Particulars from Letters, &c. |
|---|---|---|
| No. 12. A. A. (20 Sept. 1854) | 19 April 1855; himself | Has remunerative employment. Doing well. |
| No. 13. A. G. (21 Feb. 1855) | 19 April 1855; by No. 12. | Had just left his native place in search of work, which was found, and is doing well. |
| No. 14. R. R. (3 Jan. 1855) | 24 April 1855; himself | In a good situation, at 40 *l.* a year. |
| No. 15. P. F. (21 Feb. 1855) | 24 April 1855; by No. 14. | In steady work. Doing well. |
| No. 16. C. P. (6 Jan. 1854) | 26 April and 28 May 1855; principal schoolmaster. | Doing well in every respect. His master had raised his wages on account of his zeal in the discharge of his duties. |
| No. 17. J. R. (15 June 1854) | 29 April 1855; himself | In good employment, and doing well in every respect. Expresses his gratitude for the instruction received in Parkhurst. |
| No. 18. H. C. (10 Oct. 1854) | 1 May and 25; also 30 June 1855; himself. | May 1st. Doing well in every respect. His master and mistress very kind to him. May 25th. Had been found out by old associates, who were tempting, annoying, and exposing him. June 30th. Had got another place; doing well. |
| No. 19. J. P. (19 Dec. 1854) | 1 May 1855; by No. 18. | Sentenced to four years' penal servitude for relapsing into his old habits. |
| No. 20. A. A. (21 Feb. 1855) | 7 May 1855; himself | Living with his parents, and earning 10 *s.* per week. |
| No. 21. J. J. (3 May 1855) | 11 May 1855; himself | Expresses himself gratefully for the kindness received, and the advantages derived while in Parkhurst Prison. He intended to go to his relations in America. |
| No. 22. T. R. (15 June 1854) | 12 May 1855; by a prisoner's mother's letter. | Sentenced to 21 years' penal servitude for housebreaking. |
| No. 23. W. H. (14 June 1854) | 12 May 1855; the governor of Parkhurst. | Licence revoked. |
| No. 24. P. F. (9 Oct. 1854) | 16 May 1855; himself | Doing well in every respect. |
| No. 25. E. G. (6 Jan. 1854) | 28 May 1855; by No. 16. | Doing well in every respect. |
| No. 26. C. R. (3 May 1855) | 28 May 1855; himself | Doing well. Living with his sister. |
| No. 27. H. M. (4 May 1855) | 10 June 1855; himself | Doing well. |
| No. 28. J. L. (6 Jan. 1854) | 10 June 1855; himself | Doing well in every respect. Has been in constant employment with the same master during the whole period. |
| No. 29. E. E. (6 Jan. 1855) | 10 June 1855; by No. 28. | Doing quite well. Works along with No. 28. |
| No. 30. W. C. (18 Sept. 1854) | 16 June 1855; the chaplain of Parkhurst. | Was obliged to leave a most comfortable place on account of its having become generally known that he had been a convict. He has got another situation, in which he is doing well. |
| No. 31. J. F. (21 Sept. 1854) | 30 June 1855; the chaplain of Winchester Prison. | In Winchester Prison, having had his licence revoked. |
| No. 32. R. C. (9 May 1855) | 30 June 1855; himself and others | Doing well. |
| No. 33. J. M. L. (8 May 1855) | 30 June 1855; himself and others. | Doing well. |
| No. 34. W. S. (9 Oct. 1854) | 30 June 1855; by No. 32. | Doing very well. |
| No. 35. C. L. (21 May. 1855) | 30 June 1855; by No. 32 and himself. | He is doing very well. |
| No. 36. S L. (3 May 1855) | 30 June 1855; himself | Expressing the deepest gratitude for the kindness and instruction received during the time he was in Parkhurst. He is doing well and in good work. |
| No 37. T. M. (20 Sept. 1854) | 30 June 1855; by No. 38. | Has been re-convicted. |
| No. 38. M. B. (20 Sept. 1854) | 30 June 1855; by No. 36. | Doing well. |

Quarter ending 30 September 1855.

| | | |
|---|---|---|
| No. 1. J. A. (21 May 1855) | 8 July 1855; himself | Complaining of not having been able to procure employment; known, however, to be living honestly. |
| No. 2. S. L. (3 May 1855) - | 8 and 29 July 1855; himself. | Doing well in every respect. |
| No. 3. H. C. (10 Oct. 1854) | 14 July and 12 Aug. 1855; himself. | In full employment, and doing well. |

| Initials of Prisoners, and Date of Discharge. | Date of Information, and by whom afforded. | Abstract of Particulars from Letters, &c. |
|---|---|---|
| No. 4. T. P. (19 Dec. 1854) | 14 July 1855; himself | In good employment in the United States of America. |
| No. 5. J. B. (14 June 1854) | 23 July 1855; W. H. returned to this place, and reported upon last quarter. | Comfortably married, and doing well in every respect. |
| No. 6. J. P. (6 Jan. 1854) - | 23 July 1855; W. H. returned to this place. | Sentenced to six years' penal servitude for relapsing into his old habits. |
| No. 7. J. J. (20 March 1854) | 23 July 1855; returned to this place. | Licence revoked, and returned to this place for relapsing into his old habits. |
| No. 8. A. A. (20 Sept. 1854) | 23 July 1855; a letter received by a prisoner here. | Doing well in every respect, and has been working in the same place during the whole period. |
| No. 9. J. C. (20 Sept. 1854) | 27 July 1855; himself | Fully employed, and doing well. |
| No. 10. A. G. (21 Feb. 1855) | 27 July 1855; visited Parkhurst. | Fully employed, and doing well. |
| No. 11. R. B. (6 Jan. 1854) | 1 Aug. 1855; himself | Doing well. |
| No. 12. T. A. (4 May 1855) | 1 Aug. 1855; himself | Working with his uncle; doing well. |
| No. 13. P. M. C. (3 Jan. 1854) | 1 Aug. 1855; by No. 2 | Had been in good employment at 18 *s.* per week, but was in search of work on account of its having become slack at his former place of residence. |
| No. 14. R. C. (9 May 1855) | 2 Aug. and 20 Sept. 1855; himself. | Doing well in every respect. |
| No. 15. T. J. (3 May 1855) | 2 Aug. 1855; himself | In good work, and doing well in every respect. |
| No. 16. H. D. (15 Aug. 1854) | 8 Aug. 1855; seen by the chaplain. | Doing well. |
| No. 17. W. S. (9 Oct. 1854) | 13 Aug. 1855; himself | Doing very well, and has been in the same situation during the whole period. |
| No. 18. W. P. (15 Aug. 1854) | 15 Aug. and 30 Sept. 1855; himself. | Fully employed. Doing well. |
| No. 19. C. H. (15 Aug. 1854) | 15 Aug. 1855; himself and No. 18. | Fully employed. Doing well. |
| No. 20. W. M. (21 Feb. 1855) | 19 Aug. 1855; himself | Earning 10 *s.* per week, and expecting an advance. |
| No. 21. G. B. (26 July 1855) | 21 Aug. and 30 Sept. 1855; seen by the principal schoolmaster. | Fully employed, and seemingly happy. |
| No. 22. D. S. (28 Aug. 1855) | 11 Sept. 1855; himself | Doing well, and earning 12 *s.* per week. |
| No. 23. R. B. (26 July 1855) | 13 Sept. 1855; himself | Doing well. |
| No. 24. J. M. (13 May 1855) | 13 Sept. 1855; No. 23 | Doing well. Earning 15 *s.* per week. |
| No. 25. J. J. (3 May 1855) | 13 Sept. 1855; No. 23 | Gone to the United States of America. |
| No. 26. J. M. L. (7 May 1855) | 13 Sept. 1855; seen by No. 23 - - | Doing well. This is the information we received the next time we heard of these lads. |
| No. 27. T. K. (26 July 1855) | | |
| No. 28. E. J. (26 July 1855) | | |
| No. 29. J. F. (14 June 1854) | 13 Sept. 1855; a letter received by a prisoner from his father. | In good health; working and doing well. |
| No. 30. W. P. (28 Aug. 1855) | 13 Sept. 1855; a letter received by a prisoner from his father. | Doing well, and earning 22 *s.* per week by working at the trade which he learnt while in Parkhurst Prison. |
| No. 31. J. S. (28 Aug. 1855) | 14 Sept. 1855; himself | In good work at 15 *s.* per week. |
| No. 32. G. Y. (15 Aug. 1854) | 18 Sept. 1855; himself | In full employment. Doing well. |
| No. 33. C. H. (14 June 1854) | 19 Sept. 1855; himself | In constant work at 15 *s.* per week. |
| No. 34. W. H. (3 Aug. 1855) | 23 Sept. 1855; has visited the officers of the establishment twice since licensed. | Doing well. Very cheerful. |
| No. 35. B. R. (26 July 1855) | 27 Sept. 1855; himself, and by No. 34. | Doing well. |
| No. 36. E. G. B. (21 Aug. 1855). | 27 Sept. 1855; himself | In work, and doing well. |
| No. 37. R. H. (15 Aug. 1854) | 30 Sept. 1855; himself | In work, and doing well. |
| No. 38. R. P. (19 Dec. 1854) | 30 Sept. 1855; himself | Engaged on board a steam-boat trading on the coast of Australia. He says he is comfortable and well cared for. |
| No. 39. H. B. (28 Aug. 1855) | 30 Sept. 1855; himself | Working with his uncle, and doing well. |
| No. 40. J. M. (21 Feb. 1855) | 30 Sept. 1855; by No. 39. | Doing well. |
| No. 41. J. L. (26 July 1855) | 30 Sept. 1855; by No. 39. | Doing well. |

(*continued*)

Capt. *D. O'Brien.*

28 April 1856.

QUARTER ending 31 December 1855.

| Initials of Prisoners, and Date of Discharge. | Date of Information, and by whom afforded. | Abstract of Particulars from Letters, &c. |
|---|---|---|
| No. 1. W. P. (28 Aug. 1855) | 1 Oct. and 21 Dec. 1855; himself and No. 2. R. R. | Doing well in every respect. Earning 22*s.* per week by working at the trade which he learned while in this place. |
| No. 2. R. R. (3 Jan. 1854) | 1 Oct. and 21 Dec. 1855; himself and No. 1. W. P. | Doing well in every respect, and has been in the same situation during the whole period. |
| No. 3. A. A. (20 Sept. 1854) | 1 Oct. and 21 Dec. 1855; himself and No. 1. W. P. | Conduct most satisfactory in every way. |
| No. 4. J. C. (28 Aug. 1855) | 4 Oct. 1855; himself | In full employment. |
| No. 5. D. L. (21 Feb. 1855) | 4 Oct. 1855; himself | Fully employed, and doing well. |
| No. 6. T. W. (28 Aug. 1855) | 21 Oct. 1855; himself | Fully employed and doing well. |
| No. 7. T. L. (14 June 1855) | 21 Oct. 1855; himself | Doing well in every respect, and earning 21 *s.* per week. |
| No. 8. W. P. (15 Aug. 1854) | 23 Oct. 1855; himself | Fully employed. Conduct satisfactory. |
| No. 9. T. K. (26 July 1855) | 23 Oct. and 4 Nov. 1855; himself and W. P., No. 8. | Doing well. |
| No. 10. J. W. (21 Feb. 1855) | 24 Oct. and 21 Dec. 1855; himself and No. 2. | Sentenced to 21 years' transportation for house-breaking. |
| No. 11. J. B. (26 May 1855) | 24 Oct. and 21 Dec. 1855; himself and No. 2. | The same sentence for the same crime as No. 10. |
| No. 12. P. F. (21 Feb. 1855) | 24 Oct. 1855; by J. W., No. 10. | Doing well. Fully employed. |
| No. 13. C. R. (10 Apr. 1855) | 24 Oct. and 21 Dec. 1855; by Nos. 2 and 10. | Doing well. Fully employed. |
| No. 14. G. R. (20 Sept. 1854) | 30 Oct. 1865; returned to this place. | Licence revoked, and returned to this place because he was put into prison for being out late at night, and for burning his licence. |
| No. 15. G. B. (9 May 1854) | 30 Oct. 1855; by G. R., No. 14. | Conduct satisfactory in every respect. Earning 2 *s.* 6 *d.* per day. |
| No. 16. R. H. (3 Jan. 1855) | 30 Oct. 1855; by G. R., No. 14. | Sentenced to four years' penal servitude for stealing an overcoat. |
| No. 17. H. W. (12 Oct. 1855) | 1 Nov. 1855; himself | Working at the trade which he learned in Parkhurst, in his parents' home. |
| No. 18. W. S. (9 Oct. 1854) | 14 Nov. 1855; visited the prison. | Looking well, and doing very well. |
| No. 19. R. G. (7 Nov. 1855) | 17 Nov. 1855; himself | Was well received by his family, relations, and friends. Doing well. |
| No. 20. G. M. (7 Nov. 1855) | 17 Nov. and 30 Dec. 1855; himself and R. G., No. 19. | Has got a good situation in his native town. |
| No. 21. G. B. (26 July 1855) | 17 Nov. and 15 Dec. 1855; seen by the principal schoolmaster. | A sedate looking lad. Giving satisfaction to his employers. |
| No. 22. W. R. (21 May 1855) | 20 Nov. 1855; himself | Doing well, and earning 15 *s.* per week. |
| No. 23. T. B. (22 Oct. 1855) | 20 Nov. 1855; himself | A sailor boy. Has bound himself for four years. |
| No. 24. J. S. (26 July 1855) | 27 Nov. 1855; himself | Doing well in every respect. Earning above 20 *s.* per week. |
| No. 25. R. K. (7 Nov. 1855) | 27 Nov. 1855; himself | Informing us of his kindly reception by friends and relations. |
| No. 26. J. S. (28 Aug. 1855) | 27 Nov. and 31 Dec. 1855; himself, and by R. K., No. 25. | Doing well, and keeping good company. |
| No. 27. W. C. (18 Sept. 1854) | 30 Nov. 1855; himself | Conducting himself well, and giving his master entire satisfaction. |
| No. 28. W. E. (22 Nov. 1855) | 8 Dec. 1855; himself | Expressing great thankfulness for kindnesses received while in Parkhurst. Doing well. |
| No. 29. H. W (22 Nov. 1855) | 10 Dec. 1855; himself | Doing well. Fully employed. |
| No. 30. J. J (27 Nov. 1855) | 11 Dec. 1855; himself | Doing well. Fully employed. |
| No. 31. R. C. (9 May 1855) | 12 Dec. 1855; himself | Conduct satisfactory in every respect. Has aided his mother by sending her money. |
| No. 32. H. B. (7 Nov. 1855) | 15 Dec. 1855; himself and others. | Doing well, and very happy. |
| No. 33. W. A. (7 Nov. 1855) | 15 Dec. 1855; himself | Working with his brother. |

| Initials of Prisoners, and Date of Discharge. | Date of Information, and by whom afforded. | Abstract of Particulars from Letters, &c. |
|---|---|---|
| No. 34. J. H. (15 Aug. 1854) | 15 Dec. 1855; by W. A., No. 33. | Doing well in his situation. |
| No. 35. T. J. (7 Nov. 1855) | 15 Dec. 1855; by W. A., No. 33. | Working at the trade which he was taught at Parkhurst. Doing well. |
| No. 36. J.M.C.(28Aug.1855) | 14 Dec. 1855; by J. W., No. 43. | Going on steadily, and doing well. |
| No. 37. J. N. (7 Nov. 1855) | 16 Dec. 1855; himself | Doing well. Earning 12 *s.* per week. |
| No. 38. W. M. A. (22 Nov. 1855). | 21 Dec. 1855; by R. R., No. 2. | Earning by his situation 10 *s.* per week. |
| No. 39. W. H. (3 Aug. 1855) | 24 Dec. 1855; visited the prison. | Conduct satisfactory in every respect. Fully employed. |
| No. 40. B. R. (26 July 1855) | 24 Dec. 1855; by W. H., No. 39. | Conduct satisfactory in every respect. Fully employed. |
| No. 41. G. E. B. (21 Aug. 1855). | 24 Dec. 1855; by W. H., No. 39. | Conduct satisfactory in every respect. Fully employed. |
| No. 42. J. R. (19 Nov. 1855) | 27 Dec. 1855; seen by the chaplain. | Conduct satisfactory in every respect; has been in the same situation during the whole period. |
| No. 43. J. W. (4 Dec. 1855) | 31 Dec. 1855; himself | Doing well, and working at the trade which he was taught in Parkhurst. |

647. Have you a summary of the contents of that table?—I have.

648. Can you state it shortly to the Committee?—Of the 151 in the table who have been discharged, and whose circumstances are known, 134 have turned out satisfactorily; 17 have not turned out satisfactorily. This brings the discharges down to the end of the year 1855.

649. Have you another table which you wish to bring before the Committee?—Yes.

650. What is that other table?—In addition to those 151 whom I have mentioned, there have been 148 discharged, to the 31st of December 1855, with tickets of leave, of whom nothing has been heard. The total numbers, therefore, including those who were first mentioned, and including the latter, amount to 299.

651. Mr. *B. Denison.*] Between what periods?—From the passing of the Act up to the 31st of December 1855.

652. Rather more than two years?—About two years and a half.

653. *Chairman.*] Can you give the Committee information as to the licences revoked with regard to the Parkhurst boys?—Yes.

654. Will you be so good as to state any information in your possession upon that subject?—There have been 9 licences revoked.

655. Mr. *B. Denison.*] Out of how many?—Out of 299 that I have mentioned.

656. *Chairman.*] Are there any cases of prisoners visiting Parkhurst again after their release?—Yes. In order to show what the boys themselves thought of their treatment at Parkhurst, I requested the governor, Mr. Hall, to send me any information he might possess of those who had gone to the place to visit it after they had been released; of these there were three seamen in the Royal Navy; one of them once, one twice, and one five or six times; four collier seamen, one of them twice, one three times, and one frequently; six soldiers, two of them twice, and a third repeatedly; three other licensed prisoners in Parkhurst barracks have recognized prison officers, and have spoken to them when they could do so without attracting the notice of their comrades. Mr. Hall adds, "I have seen letters from four or five other prisoners now on licences, in which they say they wish to revisit Parkhurst as soon as they can find time, and afford the expense of the journey;" that is very satisfactory.

657. From what you have observed of the operation of the present Act, into which the Committee are now inquiring, have you any suggestions which you think it desirable to make with regard to its alteration?—In the first place, it is clear that prisoners with licences who have gone on board ship, or otherwise left the country, have done so in breach of the Act, which requires that these persons shall be kept in the country; I think it right to mention this to the Committee, to show that the Act is broken, and that it is desirable that the law should be altered; I refer to the 9th section.

658. What alteration would you suggest that it is desirable to make?—In the 9th section, after the words "to be at large," I would leave out the words "in the

Capt. *D. O'Brien.*

28 April 1856.

United Kingdom and the Channel Islands, or in such part thereof respectively,' and I would confine it to these words, "or to any punishment substituted for transportation by this Act, a licence to be at large, as in such licence shall be expressed."

659. Is this the form of licence now issued (*handing a Paper to the Witness*)? —Yes.

660. Will you read it?—This is issued to a convict who is not restricted to a particular district.

[*The Witness read the same, as follows:*]

ORDER OF LICENCE to a CONVICT, made under the Statute 16 & 17 Vict., chap. 99, sect. 9.

Whitehall, day of 185 .

HER MAJESTY is graciously pleased to grant to who was convicted of at the for the of on the day of and was then and there sentenced to be transported beyond the seas for the term of years, Her Royal Licence to be at large in the United Kingdom from the day of his liberation under this Order, during the remaining portion of his said term of transportation, unless it shall please Her Majesty sooner to revoke or alter such Licence. And Her Majesty hereby orders that the said be set at liberty within 30 days from the date of this Order.

Given under my hand and seal,

Signed (by the Secretary of State).

(True copy.)

Chairman of the Directors of Convict Prisons.

(On the back.)

NOTICE.

1. THE power of revoking or altering the licence of a convict will most certainly be exercised in case of his misconduct.

2. If, therefore, he wishes to retain the privilege, which, by his good behaviour under penal discipline he has obtained, he must prove by his subsequent conduct that he is really worthy of Her Majesty's clemency.

3. To produce a forfeiture of the licence, it is by no means necessary that the holder should be convicted of any new offence. If he associates with notoriously bad characters, leads an idle and dissolute life, or has no visible means of obtaining an honest livelihood, &c., it will be assumed that he is about to relapse into crime, and he will be at once apprehended, and re-committed to prison under his original sentence.

DESCRIPTION.

| | | |
|---|---|---|
| Hair - - - - - | | |
| Eyes - - - - - | | |
| Eyebrows - - - - | | |
| Nose - - - - - | | |
| Mouth - - - - - | | |
| Complexion - - - - | | |
| Visage - - - - - | | |
| Make - - - - - | | |
| Height - - - - - | feet. | in. |
| Trade - - - - - | | |
| Born at - - - - - | | |
| Friends reside at - - - - - | | |

661. As I understand, you think it desirable that the law should be so altered that there should be the power to grant a licence to be at large beyond the United Kingdom and the Channel Islands?—Such is my opinion.

662. Will you state shortly your reasons for thinking that alteration advisable? —Because practically the Act is evaded. I think it desirable that men should be allowed to go to sea; this clause does not permit them that privilege. I think if a man wishes to emigrate, he should not be confined by this Act

to

to this country. Several prisoners have said to me at different times, "I, sir, should be able to get away; I have friends in America;" and I have no doubt that those men do go to the colonies, when in point of fact their licence by law restricts them to remain in this country. In truth, the operation of this law prevents a licensed prisoner emigrating so long as he is a licensed prisoner.

663. Lord *Naas.*] Have there been any boys discharged at Parkhurst on the expiration of sentence?—Several boys have been discharged from Parkhurst on the expiration of sentence, not with tickets-of-leave, of course; they have, however, only been detained there until the expiration of their sentence, in consequence of bad behaviour during the time that they were at Parkhurst.

664. Can you give the Committee any information as to their subsequent fate?—I do not recollect an instance.

665. How many boys have been so discharged?—I have no document at hand to give that information; I can obtain it without difficulty, if required.

666. There will be of course for the future a considerable number of boys discharged on expiration of sentence?—According to the present regulations, all boys sentenced to penal servitude will be discharged at the expiration of their sentences, and not before.

667. Have there been any attempts made to procure situations for boys who have been discharged on expiration of sentence?—Not one that I know of, and for this reason, that those boys could not be recommended in respect of good conduct; if their conduct had been good, they would have been discharged with licences long before.

668. Then the difficulty of procuring situations for boys discharged at the expiration of sentence will in most cases be much more than in procuring situations for those let out on licences?—Their case is almost hopeless.

669. Can you give any information to the Committee with regard to the subsequent fate of any number of boys who have been discharged at any time at Parkhurst on the expiration of sentence?—I cannot.

670. Why cannot you do it for years past in former times?—Previously to the passing of the Act the lads were sent abroad; we did not know, except in very few cases, what became of them.

671. Mr. *J. Wynne.*] Are the same pains taken to trace the subsequent career of that class of boys as are taken to trace the career of those let out on tickets of leave?—No, the distance was too great; for several years they were sent to Van Diemen's Land.

672. I mean with regard to those who are now discharged since the passing of the Act; do you take any pains to trace their subsequent career?—Yes, in this respect: they are encouraged to write to the governor and to the chaplain as to how they are going on; but beyond that we take no steps.

673. Mr. *B. Denison.*] Are you in the habit of seeing all the boys at Parkhurst?—I see them all monthly.

674. In your opinion, are they much improved, in their general conduct, morals, and so forth, between the time of their coming in and that of their going out?—I think there is a very great improvement.

675. Are they generally able physically to earn a livelihood?—They are; the place is very healthy; they are very well taken care of; they are very well fed; and though they cannot earn a great deal of money, yet still they are for the most part handy, hardworking lads, who ought not to starve, when discharged.

676. If they are there for two or three years, having come in at 13 and 14 years of age, they probably would be rather fine young men when they went out?—They are, most of them.

677. Speaking generally, do you think they are able, if they are willing, really to earn an honest livelihood?—I have no doubt of it.

678. Are they so far trained in the different handicraft trades and agricultural labour as to be better able to earn a livelihood, if they are willing, after they come out than when they went in?—Certainly; there is no comparison between their capability of earning a livelihood when they go out and when they come in.

679. From your general knowledge of the trades and employments of the country, are you of opinion that they might, if they were so disposed, earn an honest livelihood?—For the most part, I think so.

680. What sort of proportion of them, in your opinion, upon coming out of the prison, do turn to and earn an honest livelihood?—That I am not prepared to say.

Capt. *D. O'Brien.*

28 April 1856.

681. Do you think that 50 per cent. of the boys turned out of Parkhurst go back to an immoral and bad life, and that 50 per cent. earn an honest livelihood; what per-centage of the boys who have been in Parkhurst for two or three years, in your opinion, go back into the world and earn an honest livelihood, you having previously stated that they are well taken care of, that they are trained, at all events for a time, in moral habits, and that they are physically better able to earn a livelihood than when they came in?—From 70 to 80 per cent., as far as we know, may earn an honest livelihood.

682. And the remainder, in your opinion, relapse?—Yes.

683. You are speaking now of boys?—Entirely.

684. To what extent would you apply those observations to adults; so far as your experience goes, is there a greater disposition to reform on the part of the boys than on the part of the adults?—So much depends upon the opportunities which the adult has, or which the boy has, that I am in a difficulty about giving a reasonable answer to the question; but I dare say, if one could get accurately at the facts, it would be found that the adults might be doing well in the ratio of 80 per cent., and the juveniles in the ratio of 70 per cent. I think the advantage is rather on the side of the adults.

685. You, in your previous evidence, stated, that in your opinion there were 80 per cent. who did not return to crime; that there were 12 per cent. who had their licences revoked, and that there were 8 per cent. who might have relapsed, of whom you did not know anything; how far does that apply to juveniles?—I do not think that the per-centage would be so favourable for the juveniles as for the adults; if 80 per cent. represented one, I should fear that not more than 70 per cent. would represent the other; still, I have no data that I can much rely upon when giving this answer.

686. Lord *Naas.*] Are the employments at Parkhurst apportioned to the boys at all in proportion to the length of their sentence, or to the crime for which they are confined?—Nothing is considered with respect to their antecedents, but according to their capabilities.

687. Are the boys who are being taught trades, taught separately or together?—Together.

688. Then they practise agriculture and handicrafts in a body together?—Together.

689. There is no separate system?—Yes, there is a separate system. In stating how the prisoners received their licences, I mentioned that one step was a probationary ward. When a boy is sent by me from Millbank prison to Parkhurst, he is placed in separation for four months, in what is termed the Probationary Ward. During that time he does not labour in association; he attends school in association; but otherwise he is not mixed up with his fellow prisoners.

690. Are they allowed to choose their own employment?—No.

691. You do not make any difference as regards their labour in proportion to the term of their sentence, or their previous character?—No.

692. So that a boy sentenced to a long imprisonment, having been convicted of a very serious crime, and a boy sentenced to a shorter imprisonment who has been convicted of a less serious crime, receive, in point of fact, precisely the same treatment?—Precisely the same.

693. Mr. *Adderley.*] Are you aware that there is a class of persons always on the look out for boys on their discharge, with the object of training them and employing them for thieving purposes?—I have seen a report from a committee at Aberdeen stating that very startling fact.

694. Will you state briefly what you know upon that point?—It is generally well known that the Aberdeen Schools of Reform were exceedingly well managed, and very successful; a committee was formed to inquire into this circumstance, and they obtained information that there were persons pursuing precisely the same course to get boys again into difficulties which had been pursued by the committee to get them out of their difficulties; that whereas Mr. Watson and his friends had encouraged the boys to leave the streets and to behave well, other persons banding together encouraged the boys to leave the schools, to pillage to a great extent, and to bring what they pillaged to them. They appear to have systematically organised their school for thieves, for training them up, sending them out to steal, pointing out to them where the property was to be obtained, and how they might possess it; in a word, these establishments were training schools for the purpose of initiating and employing thieves in their profession, and preparing them to carry

carry it on with profit and safety to themselves and to their employers. The consequence has been, that there have been a great number more committals latterly than there had been before this combination to which I allude.

695. Are you aware of a similar system existing elsewhere?—I do not know of my own knowledge of any one existing elsewhere, but I have no doubt there is.

696. So that boys, especially on their discharge from prison, are not only liable to fall amongst their old associates, but into such an organised trap on the part of old adult thieves, the greater number of them?—Yes.

697. And if there is no benevolent agency to provide such boys with honest employment, there is probably a very efficient agency to provide them with dishonest employment?—Certainly.

698. Can you state roughly what is the average age of boys on their discharge from Parkhurst?—Between 18 and 22.

699. Mr. *Deedes.*] With reference to that subject, do you know of your own knowledge, or have you reason to believe, that among persons so seeking to entrap boys when they are discharged, any ticket of leave men or convicts who have gone through their period of imprisonment are employed in adopting that course?—I do not.

700. With regard to labour, you gave an answer just now to a question of the Noble Lord opposite with respect to different kinds of labour; I think you said previously on this subject, that so far as handicrafts were taught at Parkhurst, the boys did not arrive at a sufficient amount of proficiency to enable them to earn a livelihood when they came out?—I did; and that is true as regards handicrafts; but a boy is rendered very handy as a farm-servant, by his knowledge, for instance, of making bricks; and he would be useful from knowing a little of tailoring, and so forth; but I believe that none of those boys, or at any rate very few of them, would be able to earn their livelihood sitting on the shop-board.

701. Then it would follow that the degree of proficiency which they obtain in learning anything at Parkhurst, to enable them to get an honest livelihood when they go out, must be principally or almost entirely in agricultural employment?—Principally.

702. Lord *Naas.*] I think the returns show that of the number of boys who are sent out, very few find their way to agricultural labour; the greater number of them either go to sea, or are employed in mines or trades?—Those that I have mentioned to the Committee have gone to sea, and have been employed in mines; but those were chiefly boys who had no friends. I cannot quite answer the question.

703. You cannot tell the Committee what proportion of the boys who are discharged find their way to agricultural labour?—No, I cannot.

704. Mr. *Wickham.*] I thought that it had been the especial object of Parkhurst to teach these boys some trade by which they were to get their living when they were discharged from prison; that does not seem to have been the principal object from your evidence to-day?—It is an object, but they are not there sufficiently long to become proficient.

705. Have not a great many boys been sent there instead of being confined in the local prison, with the idea that they would be better instructed in their trade, whatever trade they were to follow, than they would have been elsewhere?—And I believe they are; but still I think that the time that they are at Parkhurst is not sufficiently long to make them good handicraftsmen.

706. Have not a great many boys had sentence of transportation passed upon them to enable them to be sent to Parkhurst to learn a trade?—I believe such is the case.

707. Still, notwithstanding that, they go away from Parkhurst before they have obtained a sufficient knowledge of that trade?—That is true.

708. Mr. *Deedes.*] I understand you to say, that in your opinion of the adults, you think about 80 per cent. on returning from punishment gain an honest livelihood, but only 70 per cent. of the juveniles?—I guess at those two numbers.

709. It is a mere guess?—A mere guess; as yet we have not obtained sufficient information to justify me in stating anything positive on the subject.

710. Mr. *B. Denison.*] These parties respecting whom you have been giving evidence, were all parties who were previously sentenced to transportation, because the Act has only been in operation two years; and therefore those who have been released by tickets of leave were previously sentenced to transportation?

Capt. *D. O'Brien.*

28 April 1856.

—All those who have been discharged with tickets of leave had been previously sentenced to transportation.

711. Were all the licences which have been granted within the last two years respecting which you have given evidence, licences to parties who were previously sentenced to transportation?—Entirely.

712. Therefore, the Act of 1853, as regards those who were sentenced to penal servitude, has not come practically into operation; at least you have had no evidence of the result of that Act. Have any persons received licences who have been sentenced under the Act of 1853?—I believe none.

713. Then, as I understand it, but I may be wrong, tickets of leave are not to be granted to parties who have been sentenced to penal servitude?—Such I understand to be the case.

714. Then is it true that tickets of leave are no longer to be granted to any persons?—According to the present regulation, tickets of leave are not to be granted to any persons except those who were sentenced to transportation before the last Act was passed.

715. Tickets of leave may still be granted to parties who are in England, under sentence of transportation; but no tickets of leave are to be granted to those who are in custody, sentenced to penal servitude?—Just so; but a sentence of transportation is also enacted by the late law.

716. Mr. *K. Seymer.*] Are we to understand that tickets of leave, according to the regulations which are now made, are to be granted only to persons who were under sentence of transportation in the year 1853?—Yes.

717. Mr. *Adderley.*] But no licence will be granted to any prisoner under sentence, either of transportation or of penal servitude, subsequent to 1853?—That is the regulation at present; of course, I cannot tell what the Government may do hereafter.

718. Mr. *B. Denison.*] If it be true that parties who are sentenced to penal servitude are not to have any tickets of leave until their sentences have been gone through, have you made any calculation of the number of tickets of leave that are likely to be issued per annum; such tickets of leave can of course only apply to those who have been previously sentenced to transportation?—An accurate return may be made of the number of persons who will, provided their conduct be good, be discharged with tickets of leave in this country.

719. *Chairman.*] Supposing the present regulations to continue in force?—Supposing the present regulations to continue in force.

720. Mr. *B. Denison.*] Would it be a difficult matter to ascertain what number of persons are likely, according to what has passed in the last three or four years, to be set at liberty in the country who have been in prison. A ticket of leave from this time forward, as I understand, will not be granted to any prisoner who has been sentenced to penal servitude; but then such a prisoner, after serving a certain number of years under his sentence, would come back upon the public. What I want to ascertain if I can is, what would be the probable number of persons who would annually come back upon the country who had been sentenced to penal servitude or sentenced to transportation?—I believe that a very close approximation might be furnished.

721. Lord *Naas.*] The boys who have been discharged from Parkhurst are boys who have been discharged purely in consequence of good conduct?—Those who have received tickets of leave have been discharged solely in consequence of good conduct.

722. That applies to by far the greater number of those persons of whom you have been speaking to the Committee?—Yes.

723. Do you think that their subsequent fate, and the information which can be given upon that subject, would afford to the Committee any precedent with regard to the effects of this system upon those persons who will be discharged indiscriminately after a year or two, if the system goes on in consequence of the expiration of their sentence?—I doubt it very much; I do not think that we shall be able to supply you with accurate information, or with any information which could be at all relied upon with respect to those who are discharged without tickets of leave.

724. Therefore you think that the information which you have given to the Committee, which is so satisfactory in many instances as to the subsequent conduct of these boys, cannot be quoted as a precedent as to what will be the effect of

of the system upon the great numbers which you will have in a short time to discharge from prison indiscriminately on the expiration of sentence?—I do not think it can.

725. That is a point which has been hitherto totally untried?—It is totally untried.

726. *Chairman.*] I think you mentioned that the prison at Brixton was one under your particular superintendence?—Yes.

727. To what species of convicts is the prison at Brixton appropriated?—To women who are sentenced to transportation, and women who are sentenced to penal servitude; I have brought with me the Brixton register, and glancing through the pages will enable any of the Committee to see at once the description of persons with whom we have to deal.

728. Will you just open it—(*The Witness did so*)—I see that the headings are: "Register Number, Pent Ward and Cell. Name and Trade. Age. Married or Single, and Number of Children. Read or Write. Convicted, when and where. Specific description of Crime. Sentence. Received from whence, and when. Previous Convictions. Places and Periods of separate or other Confinement since Conviction. Where. Months. Total of separate Confinement. Special Remarks, and account of Badges, Letters, Visits, &c. Pages in Misconduct Book, and Governor's Journal. Religion. When removed, and whither. Class, when removed." You endeavour to fill up those columns with respect to each of these persons, I suppose?—Yes.

729. What information are you now proposing to give to the Committee with regard to these convicts?—The numbers of female convicts with whom we shall have to deal within the next few years.

730. Have you any information in a tabular form of the numbers of these persons with whom, according to your calculation, you must deal within the next few years?—Yes.

731. Be so good as to state what that table is?—According to a calculation made some short time back, it was estimated that on the 1st of April 1856, that is to say, the 1st of the present month, there would be 884 to deal with. That corresponds as nearly as possible with the numbers now in the country sentenced to transportation, and to penal servitude. According to our calculations, they would be increased on the 1st January 1857, to 1,064; on the 1st of January 1858, to 1,372; and on the 1st of January 1859, to 1,432. This includes all women sentenced to transportation in England; Scotland provides for her own female convicts; such is not the case with regard to male convicts.

732. And no account is taken of Irish convicts there?—None whatever. I may say, that the number which Scotland would be supposed to supply is about 100 annually.

733. On what do you ground that calculation which you have made, that these increases will take place?—We have taken, in the first place, the numbers that were sentenced to transportation in the three years previous to making up this return. The increase is due to the supposition that the penal-servitude women will be detained in prison until the expiration of their sentences, and that the system which is pursued with regard to those women sentenced to transportation before the passing of the last Act shall be continued as it is at present. That system is, that a woman sentenced to seven years' transportation shall be released after three years' imprisonment; ten years' transportation, after four years' imprisonment, and so on.

734. What has been the number of females at Brixton to whom licences have been granted under the Act, into the operation of which we are now inquiring?—Two hundred and thirty-nine.

735. Mr. *B. Denison.*] Out of what number; what per-centage would that be?—I have not got the number; by far the greater number of the women who have done, as they call it, their prescribed time, receive their licences, and 239 of these women have so received licences since the passing of the Act.

736. Have any been revoked?—Seven only. But with respect to the revocations, the time has been so short, that I do not think the proportion of revocations to discharges with licence can convey any idea at all of their falling back into crime.

737. Lord *Naas.*] When was the first of these 239 women discharged?—About two years and a half ago.

Capt. *D. O'Brien.*

28 April 1856.

738. *Chairman.*] Are there peculiar difficulties with regard to the case of female convicts?—Yes. They may be divided into two classes; those who are very good, and those who are exceedingly bad; the majority are very good; the minority are very bad indeed, and they are very difficult to manage with respect to their tempers, and so on; and that leads one to the question as to the capability of their enduring lengthened periods of imprisonment.

739. What observations or information have you to bring before the Committee upon that subject?—I venture to mention this to the Committee, in consequence of the rule now being that women sentenced to penal servitude shall serve out their whole time. It is the opinion of the medical officer, of the superintendent, of the chaplain, and of myself, that they are incapable of going through that lengthened imprisonment.

740. Mr. *B. Denison.*] In what respect?—Chiefly through ill-health.

741. Physically?—Physically; I drew out a paper, which was sent to the Home-office.

742. *Chairman.*] Do you say that the medical officer concurred in it?—Yes; probably the Committee will allow me to read this paper.

743. What paper is that which you are proposing to read?—This is a paper drawn up by me, and forwarded to the Home-office, in consequence of a letter addressed to the Department by Sir George Grey, of the 11th April 1855.

744. Bearing upon this question?—Bearing upon this question. I stated, as a basis, "I have taken the first 400 female prisoners who were received into Brixton. Of these, 322 were, or have been, now above two years in prison since their last conviction, and 78 between one year and three months and two years. The majority were several months in Millbank before they were removed to Brixton, and all at least 10 months at Brixton. I have carefully, with the medical officer and with Miss Dyer, now deputy-superintendent of Millbank, and lately principal matron at Brixton, who knows them intimately, considered each woman's case" (that is, the case of each of these 400 women first received), "in respect of her crime, previous imprisonment, age, conduct in prison, disposition, and character. The state of each woman's health has been carefully looked into by the medical officer with the view to this report. The following has been the result:—We find the prisoners range themselves, as it were, in the four following divisions: 1st. The well-disposed; 2d. the badly-disposed, but cautious; 3d. The impetuous; 4th. The utterly bad and reckless. The 1st division consists of various ages above 20, who have either not been in prison before, or perhaps only once, have been inhabitants of country places, have been ill-used or deserted; who, in fact, are as deserving of pity as of punishment, and whose conduct in prison is exemplary: these women bear imprisonment without complaint, and are industrious; but in time they become depressed, and are disheartened under long confinement. They form 18 per cent. of the whole, and 24 per cent. of them are, through sickness, incapable of undergoing penal servitude for three years." Each case having been minutely gone into by the medical officer, myself and the deputy superintendent. "Keeping such women in prison for their full sentences, is surely unnecessary as regards improvement, and dangerous as regards health. The 2d division is composed of women usually above 24 years old; they come from large towns, have been often in prison, or if not, have been receivers of stolen goods, utterers of base coin, trainers of thieves and prostitutes, keepers of brothels, &c. They bear their imprisonment without much complaint, are frequently industrious, and always clean; they keep within the line of good conduct themselves, but frequently lead others into mischief. They form 46 per cent. of the whole; and 29 per cent. of them are, through sickness, incapable of undergoing penal servitude for three years. Keeping such women in prison for their full sentences would be desirable, as they are totally undeserving of pity; but then it is doubtful whether they make any appreciable approach towards reformation; and when it appears that so large a proportion as 29 per cent. have already lost their health, it would seem unwise to insist upon the full period of their servitude being exacted from them. Besides, if a diminution of time be accorded to one class, it would be a denial of justice to exact the full time from another, unless brought about by misconduct after conviction. The 3d division consists of women who are impetuous; with violent passions, not absolutely bad, but very difficult to restrain or manage, though susceptible of kindness; capable of committing any outrage, but who will rescue a favourite officer at any personal risk if attacked by others, provided the quarrel be one in which they themselves are

are not mixed; their ages are from 17 to 25; they are almost all from large towns, and have been prostitutes; many of them have seen good days, and have had kind parents, whom they left for profligate purposes. They are generally idle, and frequently indolent; few of them even know how to thread a needle, though here and there among them are found individuals who excel in fancy-work. These women do best in separation, because when associated they encourage each other in all species of irregularities. It is essential to their well-being that their minds should be kept as evenly-balanced as possible; they thrive only in quiet; punishment, when often repeated, tends to harden them; but encouragement is necessary to train them to industry. With them the badge system answers admirably; they are much influenced in their conduct by the contemplation of what may be in prospect on receiving their discharge, and they dwell on this subject more even than on the length of their imprisonment; they sometimes say 'What is the use of our leaving prison, when we shall be obliged to do what we have done?' And they sit desponding in their cells till they almost lose their reason; when in this condition, a feeling of recklessness, amounting to despair, comes over them, and they will smash their windows and destroy their cell furniture under its influence. They form 25 per cent. of the female convicts, and 24 per cent. of them are not in a condition to bear three years' imprisonment; there is always a fear that women in this division may descend into a lower one, and become incorrigible, while at the same time there is a hope, which is occasionally fulfilled, that they may become reformed. After what has been said of these convicts, it is evident that the prospect of release before the termination of their sentences is very essential; more so than with any others. The last division consists of those who are utterly vicious; they are between 16 and 20 years of age, and a few between 50 and 60, who have been continually in and out of prison; they are neither industrious nor clean, and their conduct is invariably bad. They are reckless as to the length of their imprisonment, and they ought to receive the whole of it, if only that others should be deterred from following their examples. They form 11 per cent. of the entire number, and 27 per cent. of them are unable to bear three years' imprisonment. I have tabulated the foregoing observations as to numbers and health, as follows:

| DIVISION. | Per Cent. of Total Numbers. | Per Cent. of Sick in each Division. |
|---|---|---|
| 1st | 18 | 24 |
| 2d | 46 | 29 |
| 3d | 25 | 24 |
| 4th | 11 | 27 |

Since I drew up the above table, I have received a letter from Mr. Rendle, to the effect, that having corrected the first list of 400 women, he finds prisoners in

| | |
|---|---|
| delicate health | 103 |
| Deaths | 5 |
| Total | 108 |

Now here we have just 27 per cent. of the whole already pronounced incapable of undergoing above three years (for such Mr. Rendle means by 'delicate'); and when it is remembered, as I have before shown, that a great many of the 400 are far from having completed their three years in imprisonment, what would be the results if the whole number sentenced to penal servitude of four, six, eight, ten years, were ordered to be imprisoned their full time? 1st. A quarter of the whole would be discharged on medical grounds before the expiration of their respective sentences; 2d. Another quarter would be so broken down as to be unfit to support themselves when discharged; 3d. The punishment would depend upon the physical capacity of the woman to bear it; 4th. Feigned illness would be resorted to extensively; 5th. Many of the prisoners in the second and third

Capt. *D. O'Brien.*

28 April 1856.

divisions would descend into the lowest division, which would be best represented by a den of wild beasts."

745. Was that report one in which yourself and all the other gentlemen, whose names you have mentioned, concurred?—Yes.

746. And it was sent as the opinion of you all to the Home Office, was it?—It was; if necessary, I could produce the medical officer's report for this year on the same subject.

747. That medical officer being one of the gentlemen who concurred in this report?—Yes.

748. Have you any further information to give the Committee relating to the system at Brixton which you think it advisable for them to have?—With regard to gratuities, the gratuities have been granted in somewhat of a different mode from the others; the gratuities are not so large, and it has been desirable to give them in different proportions; a woman on her discharge would receive at the outside a post-office order for 2*l.*; that would be supposed to keep her for two months; if she was entitled to 2*l.* more, she would receive that additional 2*l.* at the end of two months; if she was entitled to a larger sum, then she would receive the balance by post-office order at the end of an additional two months; in each case a certificate of good conduct and well-doing being required from the clergyman of the parish where she went, or a magistrate, or some person of equal respectability, vouching for her being well-conducted. I should add, that as it is very material that these women's characters should not be damaged by saying publicly that they have been convicts, the chaplain has volunteered to communicate with the party who is referred to, telling him that a certain woman, say A. or B., will call upon him at a particular time, if he will be good enough to keep her name and the object of her visit secret, and then to send forward the proper testimony of her respectability.

749. Have you any information with regard to the subsequent conduct of those who have been released on licences?—I have, and I am sorry to say that it is very bad. I believe that a great many of these women, especially the older ones, will sooner or later find their way back to imprisonment. It is evident that they are differently circumstanced altogether from males. Most of these women have been prostitutes, and when they want money they go upon the streets, and fall back, if they choose it, upon their old lives, and at once money is put into their pockets. I have it as a fact that there are some persons, keepers of low lodging-houses, who take in these women who have tickets of leave, for a short time, and when the second instalment of their gratuity comes to be paid, they seize it, and turn the woman out of doors. She has no refuge, no place to go to, no means of getting a livelihood, but by walking the streets, and being a prostitute. That is the case with too many of them. It is a great pity that there are not some means of sending these women out of the country by emigration.

750. Do you mean under a system of transportation?—No; I think a system of transportation never will do for women. There was a question of sending some of these women as transports to Western Australia, but that has not taken place, and I am very glad of it. I conceive that the worst thing which can happen to a colony is having a number of these female convicts sent out to it; they are mothers of the rising generation, and I am perfectly convinced, after reading a good deal upon the subject, and thinking a good deal upon the subject, that the great demoralisation of New South Wales and Van Diemen's Land arose far more in respect of the mothers than of the fathers of the colonists.

751. Lord *Naas.*] What are you to do with them; you speak of sending them out; where would you send them to?—I do not speak of their being sent as transports, but I speak of assistance being given to them to emigrate when their imprisonment is over. I am sure that the younger ones, so long as they remain in this country, will sooner or later, for the most part, at least, go back upon the streets, and do that which they have been doing before; and I should be very glad if anything could save them from such a fate. With regard to the older ones, it would be very undesirable to send them abroad as emigrants; they would make bad emigrants. They must be kept at home; though I have no doubt they will return to their former lives, and many of them will probably end their days in prison.

752. Have you given your attention to the mode in which this system of emigration for female convicts could be carried on?—I cannot see that there would be any difficulty in emigrating these women, provided they are not over 30 years

of

of age, and are capable of earning their livelihood, and provided their conduct is good in prison. I do not see why certain agencies should not be established in the ports from whence emigrants proceed; and I do not see why they should not glide into the stream of female emigration. They would then arrive in the colony, not with the brand of transportation upon them, but as ordinary emigrants; and I do not see why they should not do as well as ordinary emigrants.

753. But do not you think there would be as great an objection on the part of the colony to take these women, under the form of emigrants, as under the form of convicts, if it was known that they were sent out with the authority of the State?—I do not think there would, because the numbers would be so few. If you deal with a few hundreds in a year, you deal with that which is manageable; but if you deal with thousands, you deal with that which is not manageable. We know very well that at present the different reformatories deal with a great many males who do go out, and nothing is said about it. I do not see why the females should not go out in the same way.

754. Mr. *Adderley.*] Have you ever turned your attention to such emigration as you have now suggested being managed by the voluntary agency of benevolent persons, instead of by Government, so as to avoid any offence being given?—I have turned my attention to that subject. I have reason to believe that something like a *Société de Patronage* will be formed in this country, and I have no doubt that it will be a portion of their self-imposed duty to provide something in the nature of emigration for those persons who ought to be emigrated. Whether Government should interfere, and Government should pay a sum of money to those agents for sending out these women, who have come under the operation of the law, is a question for the Government to decide. For my part, I do not see why they should not. I am satisfied that the money would be well spent, and I have no reason to believe that the colonies would object to it.

755. Lord *Naas.*] If a society of this kind were established purely for sending out convict women to the colonies, do not you think that they would be recognized on arriving in the colony just as easily as if they were sent out by the Government?—I think that a great many of them would be recognized, but I do not think it would interfere with their after-life; I think they would glide into the large stream of emigrating women. Of course individuals would be known here and there, but then all they have to do is, to change their locality. Mary Jones, sentenced to transportation as a convict, would not be recognized as Mary Jones, who might be hired as a servant 20 miles from the place where she landed.

756. What proportion of women of the whole number of convicts do you think would be eligible for such a society to deal with?—I cannot give you an accurate idea, because I have had no communication upon that subject.

757. You said that you thought there would be a very small number?—I think there would be a small number, because I would confine the emigration to women who are under 30 years of age, who are capable of earning their bread, and who receive good characters from the prison where they have been.

758. That would hardly be a greater proportion than the first class of 18 per cent. to whom you alluded as the best class of women now in prison?—I should say, that it would not exceed 50 per cent.; but it is a guess rather than an estimate.

759. Then the large number who remained would be still subject to all the disadvantages to which they are subject under the present system?—Yes.

760. Reformation of a female convict at home is almost impossible, I suppose, from the circumstances which attend her discharge under the present system?—I fear it is; everything depends upon the hands which she gets into after she is discharged.

761. The difficulty, I suppose, of procuring employment for a female convict, is far greater than it would be either for a boy or for an adult male?—Far greater; women are not hired unless they have characters to produce, and a woman producing a character from a prison is not likely to be hired; I am quite aware that there are several establishments in the country for the reception of prisoners; there is one at Wakefield, which is very successful, but there has been as yet no establishment formed for the reception of convicts; the women that we are speaking of have been convicted over and over again; and I very much doubt whether respectable persons will take women who have been convicted over and over again into their houses, and employ them as servants in their families. What remains, then, for these women to do? They become servants in disreputable

Capt. *D. O'Brien.*

28 April 1856.

places; they become servants in brothels; in places where stolen goods are received; in places where there is vice and poverty; where there is all that is immoral.

762. Do you then believe, that the cessation of transportation created a great additional difficulty with regard to these women?—An immense difficulty; it created all the difficulty; I do not think that the old system of transportation of women was good; indeed I have said that it was not; and I believe that the injuries done to the colony were excessive; but the relief afforded to the mother country was in proportion.

763. Supposing a place could be found to which these women could be sent, do you think that any modified system of transportation could be invented which would hold out greater opportunities of reformation than the old system did?—I think not, for this reason: a woman must go out without a stigma on her character, or else she goes out as branded; I think the brand of transportation is fatal to her when she arrives, and, as I have said, I think it fatal to the colony afterwards, if numbers are sent.

764. Still she would not be subject in a colony to be returned to these nests of infamy and crime in the same way as she is in this country?—Certainly not.

765. She would escape that portion of her danger?—She would.

766. Mr. *B. Denison.*] At present, the rule is not to transport them at all?—Exactly so.

767. The colonies object to the women as much as to the men?—Yes.

768. Supposing that one of these societies were established, do you think that it could be established without its being publicly known that it was established, and that it was part of its object that after a certain time it should take some means or another by which it could send out these unfortunate women to some colony?—I have no doubt that such information would ooze out, but I do not think it would be to such an extent as materially to interfere with the course of emigration.

769. Supposing that you had half a dozen, or half a score women whom you wanted to send out to any one of these colonies, how could you get those women out in an emigrant ship without its being known to the other emigrants that they had been women of bad character, and how could you get them landed and put into occupation without its also being known that they had been of bad character?—It would undoubtedly be known to some extent, perhaps to a considerable extent; but considering the class of people who go out, I do not know, and I do not think that the people on board would hold themselves altogether aloof from them.

770. Do you believe that half a dozen or half a score women of that description could be sent out in an emigrant ship, without something or other about their previous character being known to the emigrants on board that ship?—I think not; but I think that the other emigrants would not care very much about it.

771. Do you think that the other emigrants would allow a lot of women of that sort to go out, without making some complaint of their feelings being outraged, and perhaps in the end publishing it when they got to their place of debarkation?—I do not think they would be likely to say anything about it on their landing, unless some personal quarrels on board led to their promulgating the facts in the colony through spite.

772. A society of that description might, if they thought proper, find abundance of women unfortunately who had served their whole time, and who were therefore liberated by process of law, and to whom it would be a great act of charity to take them in hand and send them out; so that, at all events, they would not go out literally as convicts; but the question would be whether they could go out without their previous characters being known?—I think it is quite practicable, as the numbers would be so few in comparison to the whole number who emigrate; but it would require to be judiciously managed, no doubt.

773. At all events nobody would have a right to interfere with the acts and deeds of such a society, provided the parties had served their time in prison?—Just so.

774. Mr. *Adderley.*] I presume that in such a system as you are now talking of, the emigration would not be directed to colonies particularly, but the emigration would be to any country?—I should question the propriety of systematically sending out these bad women to foreign countries not colonies; which might raise awkward international questions.

775. Why

775. Why do you particularly direct such a boon to the English colonies?—I do not look upon it as a boon to the colonies, but I look upon it, first of all, as the best way of getting rid of women who, in after-life, would be a pest to society here; secondly, I think it a boon to the women themselves, being saved from the life which I have endeavoured to describe; and thirdly, I do not think that any great injury could be inflicted upon the colony by these women being sent out in the small numbers which I think would be sent. Capt. *D. O'Brien.* 28 April 1856.

776. I do not see how any one of those reasons would particularly direct such a system of emigration to a colony in preference to any other country; would not your object be equally well met if the voluntary agency was directed to sending these women to any other country where they might have a new life open to them?—Before that was done, I think it would be necessary to get the consent of the foreign country to the system.

777. I understood your proposition to be that this system was not in any way to be conducted by Government, but simply by the benevolence of voluntary subscribers; in that case, what necessity would there be for any such independent individuals negotiating with the government of any country to which they were sending out emigrants?—None whatever.

778. Would not the chief merit of your plan be, that it would not implicate our Government or our country in any way with the government or country to which such women might be sent?—I do not think it would; but my observation was directed to the fact of emigration of this description being sanctioned by the Government, or the Government being a party to it.

779. Are you aware that such voluntary agency as you have now suggested is much more largely made use of by other countries in Europe than by England?—I do not know the facts sufficiently to enable me to form a reasonable conclusion.

780. Would such a system as you have now suggested be equally applicable to male convicts as to female?—I think not.

---

*Jovis, 1° die Maii,* 1856.

MEMBERS PRESENT.

| | |
|---|---|
| Mr. Baines. | Mr. John Wynne. |
| Sir John Pakington. | Mr. Massey. |
| Lord Naas. | Mr. Beckett Denison. |
| Mr. Adderley. | Mr. Deedes. |
| Mr. Serjeant O'Brien. | Mr. Monckton Milnes. |
| Mr. Wickham. | Mr. Ker Seymer. |

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

---

Captain *Donatus O'Brien,* called in; and further Examined.

781. *Chairman.*] IS there any information which you wish to give the Committee in addition to that which you gave them when you were last here?—Yes. Capt. *D. O'Brien* 1 May 1856.

782. Be so good as to state what it is?—I wish to tell the Committee that female convicts are sent in the first instance to Millbank Prison in a state of probation, before they are sent on to Brixton; and it is intended that after passing through Brixton Prison they shall go on to an establishment at Fulham, which is now ready to receive them; the whole arrangement is detailed in a notice to female convicts, sanctioned by the Secretary of State, which I hold in my hand.

783. Will you read it?—

[*The Witness read the same, as follows:*]

Capt. *D. O'Brien.*

1 May 1856.

NOTICE TO FEMALE CONVICTS.

Transportation for certain offences having been abolished by Act of Parliament, and certain periods of imprisonment of much shorter duration, under the term "Penal Servitude," having been substituted in place of the sentences of seven and ten years' transportation, which had been usually awarded, no remission, as a general rule, of any part of the term of penal servitude will be granted; the period of detention in place of a longer sentence of transportation having been settled by law. The Secretary of State will, however, be prepared to consider the case of any prisoner whose conduct may be the subject of special recommendation. The Secretary of State is also desirous, as a general rule, of holding out encouragement to good conduct by establishing successive stages of discipline, to each of which some special privileges will be attached.

Prisoners of good conduct, and maintaining a character for willing industry, will, by this rule, be enabled, after certain fixed periods, to obtain the higher stages, and gain the privileges attached to them.

For the present, and until further orders, the following rules will be observed:—

The first stage of penal discipline will be carried out at Millbank Prison, where two classes will be established; viz., the probation class, and the third class.

The second stage of discipline will be carried out at Brixton, where the prisoners will be divided into the first, second, and third classes.

The third stage of discipline and industrial training prior to discharge will be carried out at Burlington House, Fulham, for those prisoners who, by their exemplary conduct in the first and second stages, appear deserving of being removed to that establishment.

Captain *O'Brien.*] Millbank Prison under this arrangement holds from 180 to 200 female convicts; Brixton holds about 640; Fulham probably will hold about 200; the accommodation at present at Fulham, I believe, does not extend to beyond 50, but that accommodation will be increased till it amounts to about the number that I mention.

784. Does every female convict, according to the present arrangement, go in the first instance to Millbank?—Yes.

785. Then to Brixton?—Then to Brixton.

786. And ultimately it is intended that she shall go to Fulham?—If her conduct be exemplary.

787. How is that Fulham Institution supported?—By Government.

788. How long has it existed?—It has only just come into existence; I am now preparing a list of the first female convicts to be draughted there, and they will be sent in a few days.

789. None, then, have yet gone?—Not yet.

790. For how many do you intend that it shall be calculated?—Much will depend upon the number of female convicts who ought to be sent there; that is to say, whose conduct in their earlier stages will have been sufficiently good to enable them to go to Fulham, which will be rather in the nature of a refuge than of a prison.

791. Is there any other point to which you wish to draw our attention?—Nothing.

792. Lord *Naas.*] What is the nature of the discipline which is proposed to be carried on at Fulham?—It will be much more lenient than that which exists at Brixton.

793. Is it to be conducted on the principle of association or of separation?—Of association.

794. Are the prisoners to be taught anything in the way of a trade or needlework?—Yes; the usual trades and occupations that a refuge can supply; the better descriptions of needlework and washing. I cannot go into detail, because the establishment has not yet come into existence.

795. Will the diet be on a more generous scale than at Brixton?—Yes; as the female convicts progress in the way that I have mentioned, the diet improves, and the discipline is gradually relaxed to those whose conduct is good.

796. Will there be any means at Fulham for exercise in the open air?—Considerable.

797. Are there large grounds attached?—The grounds are large and commodious.

798. Sir *J. Pakington.*] Who drew up this paper which you have read?—Who actually drew it up I do not know, but it was submitted to the Secretary of State, Sir George Grey, who approved of it.

799. Is

799. Is it issued by the authority of the Secretary of State?—Yes.

800. I find in this paper these words: "For the present and until further orders, the following rules will be observed: The first stage of penal discipline will be carried out at Millbank Prison, where two classes will be established; viz., the probation class and the third class." I wish to ask you, first of all, what period of time do these two stages at Millbank occupy; is it fixed, or does it vary?—It is fixed; the first occupies four months; the second occupies six months; it is fixed as to the probation; not fixed as to the other class, because the female convict in the other class, if she conducts herself improperly, is likely to be sent back into the probation class.

801. Do you name six months as the maximum of the second period?—Six months is the minimum.

802. That is to say, every female prisoner will be detained at Millbank the minimum period of 10 months; four in the first class, and six in the second?—Yes. I have a notice to the female convicts in Millbank Prison, which contains the information that you desire. If you will permit me, I will put it in.

803. Will you read it?—

[*The Witness read the same, as follows:*]

NOTICE TO FEMALE CONVICTS.

*Millbank Probation Class.*

1. All prisoners, on reception, will be placed in the probation class in ordinary cases for a period of four months, and, in special cases, for a longer period, according to their conduct.

2. The strictest silence will be enforced with prisoners in this class on all occasions, and they will be occupied in picking coir, until, by their industry and good conduct, they may appear deserving of other employment.

3. No prisoner in the probation class will be allowed to receive a visit.

4. Every prisoner having passed through the probation class is liable to be sent back thereto, and recommence the period of probation, upon the recommendation of the governor, and with the sanction of a director.

5. On leaving the probation class the prisoners will be received into the third class.

*Discipline of the Third Class.*

6. No prisoner will be allowed to receive a visit until she has been well-conducted for the space of two months in the third class.

7. The strictest silence will be enforced with prisoners in this class on all occasions.

8. Prisoners, whose conduct has been exemplary in the third class for a period of six months, will be eligible for removal to Brixton when vacancies occur.

804. I understand from that statement, that the period of four months and the period of six months are both minimum periods?—Yes.

805. Is there any limit to the extent to which those periods might be prolonged, in the case of bad conduct?—Bad conduct would keep them in those classes so long as they remained in the prison.

806. During both those periods, is or is not the woman in separate confinement?—During the period of probation she is in separate confinement; during the next period she is not necessarily in probation, though a portion of her time may be in probation; that arises from the construction of Millbank Prison. The part of the prison these women occupy consists of three floors; the two lower floors have separate cells in them, the upper floor has large cells, and when it is necessary to fill that part of the prison with female convicts, those who occupy the upper floor are not in separation; they are two, or three, or four, as the case may be, in each large cell; prisoners are selected for the upper floor in respect of time and good conduct combined.

807. I presume I may understand from what you say, that the first period, the probationary period, is always in separate confinement, and that the second period is or is not in separate confinement according to circumstances?—Yes.

Capt. *D. O'Brien.*

1 May 1856.

808. Those circumstances mainly depending upon the conduct of the woman?—Yes.

809. Is the confinement at Brixton in separate cells?—No; for the most part in association; Brixton Prison consists of the old part of the prison, which existed several years ago before we had anything to say to it, and a new part of the prison built under the superintendence of Colonel Jebb. The old portion of the prison consists of 175 separate cells; the new portion of the prison consists of two wings, each capable of holding about 210 prisoners. The wings consist of long corridors with small cells off them on either side, separated from each other by corrugated iron, and in four stages. Some of the women in Brixton are placed in the separate cells when their conduct is not good. The greater portion of the women occupy the large wings, where they are associated, and must be associated, from the description which I have endeavoured to give of the construction of those wings.

810. Can you say, what proportion of the women at Brixton are in separate confinement, and what proportion are in association?—By the last return, which I hold in my hand, of the actual numbers, there were in the east wing 199 prisoners in association; in the west wing, 203 prisoners in association; in the old prison cells which I have described, there were 97 in separation.

811. Separation or not turns upon conduct?—It turns upon conduct.

812. What does association mean in that case; how many are together?—The cell doors are left open, and women sit at work at their cell doors; they sit in the door-ways, separated from each other by about four or five feet, the width of each cell, in fact.

813. Are they allowed to converse?—Yes, they are allowed to converse, provided there is no improper or loud talking.

814. Then am I to understand you, that the wings in which association exists are architecturally the same as the wings in which separate confinement is carried on?—No.

815. What is the difference?—They are separated from each other by corrugated iron.

816. What is architecturally the difference between the separate confinement wings and the associated wings?—All the prisoners in the wings are associated, but there is the difference between the prisoners in the wings and the prisoners in the old cells, that the prisoners in the old cells are separated from each other by brickwork, and the arrangements are such, that they cannot talk to each other; whereas in the wings they are closer together; the doors are left open for the most part of the day, and they are not forbidden to speak to each other, provided they talk quietly and decently.

817. Can they converse with each other when the doors are closed?—They can, and they sometimes do; but it is deemed an offence to do so.

818. I understand you to mean that the separation between the cells being of corrugated iron, sound might pass from one cell to the other?—Yes.

819. But still in each cell there is only room for one woman?—Just so.

820. How many women are sitting in this way at the doors of their cells in one wing; is there any separation into different apartments in one wing?—No.

821. How many would be in one wing?—Two hundred and ten, when full.

822. That would embrace all the floors, I suppose?—Four floors.

823. What is the occupation of the women in Brixton Prison?—For the most part, needlework; in addition to that, washing; they wash for Millbank Prison and for Pentonville Prison, as well as for themselves.

824. What exercise are they allowed?—Prisoners in the third class get an hour's exercise in the day; in the second class, they are allowed to exercise for an hour and a half every day; in both cases, when the weather permits.

825. Lord *Naas.*] Do they walk together?—In the second and third classes they are allowed to exercise in pairs.

826. Sir *J. Pakington.*] What is the exercising ground; an open yard?—A large yard, surrounded by the buildings of the prison.

827. With respect to the new establishment at Fulham, what is the building; is it a building newly erected, or is it a house that has been purchased?—I cannot give you so much information about it as Colonel Jebb, because he has been looking at it daily. I have only been there once. Colonel Jebb will give you every information; it is now under him, and under him solely.

828. It

828. It is not yet occupied?—It is not yet occupied; but it will be occupied in a few days.

829. I understand you to say that any details connected with that building, in any way, the Committee had better ascertain from Colonel Jebb?—If you please.

830. Does the period, consisting of two parts, which is passed by female convicts at Millbank, vary according to the length of the whole sentence?—No.

831. The period at Millbank, then, would be the same, whether the sentence of transportation, for instance, were 7, or 10, or 15 years?—It would.

832. What is the length of the period passed at Brixton; is it fixed, or does it vary?—It will vary as soon as the establishment at Fulham is opened, but to what extent I am unable to tell you.

833. Then has it hitherto been the practice that women, on their arrival at Brixton, have been kept there to the end of the whole sentence of penal servitude?—They have been kept there till their liberation on licence.

834. Under the former law of transportation, has it been the practice to send women abroad?—Yes.

835. Always?—Always, except those who were invalids.

836. I wish to revert for a moment to your evidence on Monday about Parkhurst; Parkhurst, I think, is immediately under your care?—Yes.

837. Hitherto, I believe, up to a very recent period, Parkhurst has been reserved exclusively for boys sentenced to transportation?—Yes.

838. To what extent is that rule now modified?—Prisoners sentenced to one year, and between one year and two years, may be sent there by direction of the Secretary of State. At present, there are 38 prisoners of that description in Parkhurst.

839. When was that rule made?—Within the last year.

840. Then I understand you to say this, in fact, that the rule with regard to transportation is relaxed, and so far relaxed, that the rule with regard to penal servitude no longer applies; but that the boys sentenced to imprisonment are now sent to Parkhurst, provided the sentence is not for a shorter period than one year?—It is so.

841. Are the boys who are sent to Parkhurst under sentence of imprisonment, kept distinct from the boys who are sent there under sentences either of transportation or of penal servitude?—No, they are not; no distinction is made between them in any respect.

842. Mr. *B. Denison.*] Are the ages of female prisoners recorded, as well as those of male prisoners?—They are.

843. Have you many female prisoners under 15 or 16?—Not many; but some.

844. Can you tell from experience whether the number is increasing with respect to the younger age or not?—I do not know.

845. Is the average age of the female prisoners younger or older than that of the male prisoners?—That I cannot tell; I have not compared the two.

846. Would you think from your experience that it was more easy to reform females or males?—Males, beyond a doubt.

847. Will you tell the Committee why you have formed that opinion?—I think the difficulties of reformation with the women who are in the stage of sentence to transportation, or penal servitude, arise from the circumstances in which they are placed when they get out of prison. The difficulties which they have in getting an honest livelihood prevent them from becoming eventually decent and proper members of society; but as to the extent of reformation which takes place in the prison itself, I really have not had sufficient experience, nor do I know that anybody has had, to form a reasonable opinion upon the subject.

848. *Chairman.*] What you mean is, that the danger of relapse is greater, in your opinion, in the one case than in the other?—Yes.

849. Mr. *B. Denison.*] Is there any means of ascertaining whether the female prisoners have led an immoral life before they became subject to the penalties of the law, or whether they have been connected with thieves before they led an immoral life?—That information is chiefly obtained from the prisoner herself; her information, generally speaking, is true; the greater proportion of these women have been leading an immoral life; they have almost all been prostitutes.

850. Before they became thieves?—Yes.

 851. Does

*Capt. D. O'Brien.*

1 May 1856.

851. Does not that circumstance of their having led an immoral life in the first instance very much increase the difficulty of general reformation afterwards?—Very much so; a woman who has been once a prostitute has not the slightest hesitation in going back to her trade; there is nothing to restrain her.

852. Therefore, if she does go back, it is probable that she will go back to an immoral life, as well as to an illegal life?—Certainly.

853. Lord *Naas.*] Do you find great difficulty in extending the period of probation which you speak of to women of bad conduct, on account of their health?—No; the probation is so short, being only four months, that as yet I have not heard of any cases of women suffering, at least to any extent, from the probation which they had to undergo.

854. *Chairman.*] You spoke just now of the establishment at Fulham as one which was intended to provide a refuge for those women after they left Brixton?—Yes.

855. Are there, in point of fact, any institutions now open which act as refuges for women of this description?—There are some which have kindly taken these convicts upon the recommendation of the chaplain, Mr. Moran.

856. Are all those institutions supported by voluntary contributions?—Entirely.

857. What are they?—There is the "Elizabeth Fry" refuge for one, and there are others which I have heard of, but do not at this moment remember their names.

858. There are several?—Yes.

859. Are they increasing in number or falling off?—I have no information on the subject.

860. Mr. *B. Denison.*] You stated the other day, with respect to male convicts, that 12 per cent. had positively relapsed, and that you allowed 8 per cent. for those of whom you knew nothing, and that therefore you put down 80 per cent. as reformed?—Yes.

861. How would you apply those per-centages to women, as regards reformation?—No person can give any reasonable opinion upon the subject; it would be absolutely impossible to do so now.

862. You have no proof?—We have no proof; no one can tell; there has not been a sufficient time to form any opinion on the subject.

Captain *Irwine S. Whitty,* called in; and Examined.

*Capt. I. S. Whitty.*

863. *Chairman.*] WHAT office do you hold?—I am one of the Directors of Convict Prisons.

864. What class of prisons are under your charge?—The prisons for public works and for invalids; adult males.

865. Which are the prisons for public works?—Portland, Portsmouth, two hulks at Woolwich, and partly Dartmoor.

866. And which for the invalids?—The other part of Dartmoor, and the "Stirling Castle" hulk at Portsmouth.

867. Can you state to the Committee the amount of accommodation in each of those prisons; the number of inmates which can be placed in it?—Portland, 1,520; Portsmouth, 1,020; Dartmoor, for able-bodied men, 572; the hulk "Defence," at Woolwich, 528; and the hulk "Warrior," at Woolwich, 450.

868. What is the amount of accommodation for invalids?—Part of Dartmoor, 628, and the "Stirling Castle" hulk, at Portsmouth, 420.

869. You are aware of the object of the inquiry of this Committee into the operation of the Act of Parliament under which licences or tickets-of-leave are granted?—Yes.

870. Can you give the Committee any information with regard to that subject?—Convicts are recommended for licences at a period of their sentence of transportation, which is regulated by instructions from the Secretary of State.

871. Are those the same instructions which we have already had given in evidence?—I think not.

872. Have you got them now before you; are they in writing?—I can very simply state them. The earliest period at which a seven-years' man is recommended

mended for licence is three years; a man under sentence to 10 years' transportation, at four years; a man under sentence of 14 years' transportation, at six years; a man under sentence of 15 years, at 6½; under sentence for 20 years, at eight; and with respect to those men who are under sentence for life, each case is to be considered upon its own merits, but none brought forward under 10 years.

873. Are those periods calculated from the date of the sentence?—From the date of the sentence; those are the earliest periods at which a man can be brought forward.

874. So that each of these periods comprises within itself the imprisonment in the first instance at the prisons spoken to by Captain O'Brien, and then the period on public works?—Yes. None but prisoners of exemplary conduct in prison are brought forward at the minimum periods; the others are brought forward at some subsequent period, according to their recorded character in the prison.

875. Is great care taken with regard to recording the characters of the prisoners?—Great care is taken; the men are both classified, and have also badges on their arms, which denote their conduct and their progress towards the period of license. The prisoners, who are received on public works, from separate confinement, in the second class, are required to perform three months longer on public works, unless from subsequent good conduct a part of that period is remitted. A man received in the third class, from separate confinement, is required to perform six months longer with the same exception. A further detention may also fall upon any man for his misconduct on the public works.

876. What is the nature of the employments on the public works?—They are different at different places. At Portland it is almost entirely quarrying stone, and different trades which are connected with keeping the tools in order for that employment. At Portsmouth, it is altogether dockyard labour, except in the case of some men who are employed under the engineer department at a distance from the dockyard, in carting, and wheeling, and building, and making roads. At Dartmoor, it is chiefly agricultural labour. At Woolwich, it is also Dockyard and Arsenal labour, of the kind of work which is going on there with ordinary labourers.

877. Is the system intended to be equally laborious for all the prisoners, or are there differences in that respect?—It is equally laborious generally, but the medical officer, if he finds any particular kind of labour too laborious for a prisoner, puts him to some lighter kind of labour. For instance, at Portland and the other places we have generally a stone-breaking party; if a man is not sufficently strong for active work, or if he is temporarily convalescent, he is put to break stones, saw stone, or some such work out of doors, in place of the common quarrying or other hand labour.

878. Probably regard would be had to his former occupation?—The former occupation is made available as far as it can be for the labour of the prison; for instance, blacksmiths are placed, as far as they can be, at smith's work; as regards their carpenters the same.

879. What is the mode of proceeding adopted with regard to the granting of these letters of license when the time has come; just describe to the Committee what is done?—At the beginning of the month, before a man would be entitled according to the rules to his recommendation, a list is sent in to the office, in Parliament-street, showing all the particulars of this man's sentence, his crime, and his conduct in prison; a paper is also sent in for each man, showing what his prospects are when about to be liberated.

880. How do you obtain your information with regard to that?—The chaplains of the different prisons receive from each prisoner, in sufficient time to enable them to acquire this information, a statement of what he has himself to expect when he leaves the prison. These particulars are taken down, and a certain form is sent to the clergyman of the parish in which this man's friends, whom he proposes to assist him, reside, and upon the answers which are received a conclusion is come to, which is sent in to the Directors' Office in Parliament-street.

881. Will you go on from that point?—As soon as those papers can be examined in Parliament-street, they are forwarded to the Home Office for the consideration of the Secretary of State, and in due time the licences are issued

*Capt. I. S. Whitty.*

1 May 1856.

from there, and the men are discharged in small parties from the different prisons.

882. Are the papers sent with a recommendation from the office in Parliament-street, or is it merely for the purpose of examination there on their way to the Home Office?—They are passed on as recommendations from there.

883. Then they go to the Home Office?—They then go to the Home Office, and the next that we hear of them is the issue of the licences; they are sent to us at Parliament-street, and distributed to the different prisons. The original licence comes to Parliament-street; a parchment copy of it is made there, and signed by Colonel Jebb as a true copy, and forwarded to the prison, to be issued, that the man may be discharged.

884. Who is in possession of the original?—The original remains in Parliament-street.

885. The one signed by the Secretary of State?—Yes, the parchment copy is signed and certified by Colonel Jebb, together with a smaller parchment certificate, stating the prisoner's conduct while in prison.

886. Then the instrument given to the man is a copy of that signed by the Secretary of State, with the addition of a counter-signature, as it were, by Colonel Jebb?—Yes.

887. And upon that he is released?—Upon that the man is released.

888. Where is he sent to?—He is sent from the prison to the nearest railway station under the charge of an officer, who there pays his travelling expenses, as far as that railway company will receive them, to the place of the man's destination: he is furnished also with a post-office order for the first instalment of the gratuity of earnings, which he has acquired during the time of his being in prison; that post-office order being payable at the place of his destination.

889. You have been referring to the class of cases where you have information with regard to a prisoner having friends at a particular place; is there not also a class of cases where there are no friends?—A very considerable class.

890. How do you proceed in those cases?—They are discharged at the same time; it causes no detention in their case.

891. Where would those persons be set at liberty?—They could be sent to the places of their conviction generally.

892. Do you send an officer with them to the place of their conviction?—No; they are taken to the nearest railway station, and from there despatched.

893. With the fare paid to that place?—The fare is paid, as far as possible, to the place of their destination.

894. Are gratuities given to them on their discharge?—A man takes part of his gratuity by a post-office order, payable at the place to which he is destined to go.

895. You heard the evidence of Captain O'Brien upon the subject of these gratuities, and you agree that that is a correct statement?—Yes, he read the paper which I have here.

896. Have you anything to add upon that subject to the evidence given by him?—As to the mode in which these earnings are allotted to the men in the prison, the earnings are allotted to them, both upon character and upon industry. All prisoners on public works are divided into three classes, first, second and third; the first comprises the men of best character, the second the middling, and the third the worst; the first-class men get 9*d.* a week, the second-class men get 6*d.*, and the third-class men get 4*d.*; that is entirely on account of character; besides that, each man may earn an additional 6*d.* a week by industry. Though a first class man with merely ordinary labour will get only his 9*d.*, a third-class man may get his 4*d.* for classification, and also 6*d.* additional by industry; so that, in fact, an industrious third-class man would get 1*d.* a week more than a man of good character who did not exert himself at labour; a first-class man being very industrious would get his 9*d.*, and also an additional 6*d.*, making 1*s.* 3*d.*; at that rate a man can gain in a year at the outside, supposing him to be in the first-class, and of industrious habits, about 3*l.* 5*s.* Weekly reports are made of the industry of every man, and according to certain instructions the governor allots those extra sixpences, or such parts of them as the report of the men's industry justifies, among the different prisoners.

897. Have you any information to give the Committee with regard to the revocations of the licences?—Chiefly upon those which have been revoked from public works.

898. Will

898. Will you state it?—It is singular to observe the regularity of the increase which takes places in the per-centage each quarter on the aggregate number. There have been 10 quarters now to the 31st of March since the Act came into operation, and the per-centage has increased at the rate very nearly of three-tenths per cent. in each quarter; at the latest period the per-centage of revocations of licences on public works was $3\frac{4}{10}$ths per cent., which on the 10 quarters makes about three-tenths as the average of each quarter; and in tracing them up individually, it has gone on nearly at that progress during the whole of the 10 quarters, so that one might almost calculate from that, at any number of quarters in advance of the present time, what the per-centage of the revocations would be. Capt. *I. S. Whitty.* 1 May 1856.

899. Have you any table before you representing these results?—I have.

[*The Witness delivered in the same, which is as follows:*]

Quarterly Rate of Revocations, 0·3 per cent. on the Aggregate Number.

| PERIODS. | Licensed Nos. | Total Numbers Licensed. | | Total Number of Revocations of Licence. | | Per-centage of Revocation. | |
|---|---|---|---|---|---|---|---|
| | | In each Period. (*a.*) | Aggregate Number. (*b.*) | In each Period. (*c.*) | Aggregate Number. (*d.*) | On Number Licensed in each Period. (*a* and *c.*) | On Aggregate Number of Licences. (*b* and |
| Four months, to 31 December 1853 | - - | 335 | 335 | 1 | 1 | 0·3 | 0·3 |
| Three months, to 31 March - 1854 | - - | 314 (100)* | 649 | 0 | 1 | 0·0 | 0·15 |
| Ditto, - to 30 June - 1854 | - - | 480 | 1,129 | 8 | 9 | 1·7 | 0·8 |
| Ditto, - to 30 Sept. - 1854 | - - | 551 | 1,680 | 2 | 11 | 0·36 | 0·6 |
| Ditto, - to 31 Dec. - 1854 | - - | 550 | 2,230 | 12 | 23 | 2·2 | 1·03 |
| Ditto, - to 31 March - 1855 | - - | 433 | 2,663 | 19 | 42 | 4·4 | 1·6 |
| Ditto, - to 30 June - 1855 | - - | 761 (194)* | 3,424 | 28 | 70 | 3·7 | 2·0 |
| Ditto, - to 30 Sept. - 1855 | - - | 550 (18)* | 3,974 | 28 | 98 | 5·1 | 2·5 |
| Ditto, - to 31 Dec. - 1855 | - - | 694 (39)* | 4,668 | 28 | 126 | 4·0 | 2·7 |
| Ditto, - to 31 March - 1856 | - - | 660 (67)* | 5,328 | 55 | 181 | 8·5 | 3·4 |
| | | 5,328 | | 181 | | | |
| | | *Bermuda, Gibraltar (418) | | | | | |

Captain *Whitty.*] There is another circumstance connected with the revocations of the licences of men on public works which deserves to be noted. It is sometimes said that the worst men, when they are in prison, make the best prisoners. I think the experience on public works, since the licensing system began, is rather against that. I stated before, that it was only the exemplary men who were discharged at the minimum period; others are detained one, two, three months, and so on, according to their recorded conduct. I find that only two and four-tenths per cent. of exemplary men have had their licences revoked. Those who have been detained longer on account of misconduct in prison, go to a much higher per-centage of revocations; some of them going as high as six and three-tenths per cent., but none of them in any degree coming near the exemplary men.

900. By the exemplary men, you mean the first class?—I mean the men who are discharged at the earliest possible period in consequence of their very exemplary conduct; fewer of them come back on revocations than any of the others.

901. Mr. *M. Milnes.*] Do you not find great difficulty in practically determining the moral condition of these men?—We are obliged, in a great degree, to depend upon the man's actual observed conduct.

902. Are you not aware that the observed conduct is often really no exact criterion of a change in the mind of the man?—I am quite aware of it.

Capt. *I. S. Whitty.*

1 May 1856.

903. *Chairman.*] Is there any further information upon the subject of the revocations of tickets of leave, which you think it material to give the Committee?—I do not know that there is, except that a great many of the men who have come back with revoked licences have complained very much of their being interfered with by the police; but, of course, I cannot speak of that from my own knowledge.

904. What is the nature of their complaints?—They say that the police interfere with them, and point them out to other people.

905. Which police?—The Metropolitan police, and the police generally. I think it refers principally to Borough police; it is a great subject of complaint.

906. What is the nature of the complaints which they make?—The nature of the complaints which they have made is, that the police interfere with their getting employment, by pointing them out as licensed convicts.

907. Mr. *B. Denison.*] By "coming back" you mean coming back committed?—Coming back with revoked licences.

908. *Chairman.*] Have you formed any opinion as to the effect of sentences of penal servitude on the conduct of prisoners, as compared with sentences of transportation?—The effect of the sentence of penal servitude has been decidedly unfavourable generally on the conduct of the men as compared with the sentence of transportation.

909. Will you explain that answer?—They all complain that they have no encouragement to good conduct, the same as the men had under sentence of transportation; that however well they may behave, there is no prospect before them but to serve the whole of the time of the sentence which has been allotted to them; whereas, they see the men who are under sentence of transportation under different rules altogether, and their detention depending in a great measure beyond a certain point upon their conduct. It has been a source of great anxiety and trouble to all the officers connected with the prisons on the public works, and has in one case led to very serious misconduct. I should explain, that the men under sentence of transportation, to whom I allude, are those under sentence of transportation under the old Act.

910. In your opinion, is there good ground for that complaint?—I think there is.

911. Will you explain to the Committee your views more fully?—The men under sentence of penal servitude, who have come into prison, are associated with other men whose sentences may be shortened in consequence of good conduct, and they naturally contrast the situation of those men with their own position, in which that reward is completely taken away from them; and it is very difficult indeed to find any other reward to substitute for it, without relaxing prison discipline to such an extent as would render it almost impossible to manage men in association.

912. You mentioned one particular case, what was that?—It occurred at Portland, in the month of September last. A very large number of the men under penal servitude had plotted together to strike work when they were in the quarries; to a certain extent they did so, and a large number of them were obliged to be taken into the prison, and there confined. Some of them were guilty of very gross acts of insubordination, which led to very severe punishment; but a very few, and those some of the worst men, under sentence of transportation, joined these men, and it was some time before we could get the prison into a satisfactory state of quiet again from the excitement which had been caused by this proceeding; though there is no doubt that a great many of the prisoners, when the time came, failed to support their fellow prisoners who were more daring. The governors generally have represented to me that there is a perceptible difference between the conduct and bearing of the penal servitude men and of those who were previously under sentence of transportation. I can also state from my own knowledge that there has been an increase of those punishments which have been inflicted by the director. The cases of misconduct which it has been necessary to bring to the notice of a director, which were beyond the powers of a governor to punish, have been more numerous.

913. Among the penal servitude men?—Yes; I may state that there has been a falling off, not only in the conduct, but in the comparative value of labour in the past year from what it was previously, and I can attribute this to no other cause except a want of sufficient encouragement to willing industry and good conduct, which before existed with the men under sentence of transportation.

portation. The officers overhear the men saying that they are to serve the whole of their sentence, and that it matters very little to them whether they work hard or not.

914. Mr. *B. Denison.*] Is it the penal servitude men who complain that they must serve out their whole time, and that therefore they have no inducement to industry?—Yes.

915. *Chairman.*] I understand you to say that in the case of the men under sentence of transportation, where there is the motive of hope that by good behaviour they may bring about their liberty sooner, they have a stronger motive to conduct themselves well than the men under sentence of penal servitude, who have no such prospect?—Precisely; the number of men now sentenced to transportation is very small.

916. Is not that difference which we are speaking of, and which you say you think you have seen in times past, and up to the present time, a temporary one, which is likely to die away?—I do not think it will die away; the means of comparison will die away, but still these men know that they are to serve the whole of their time.

917. You mean, then, that the men under penal servitude will not have the same motive to good behaviour that the men under sentence of transportation had?—Yes.

918. But the means of comparison between the two will fail by and by?—Yes.

919. Still you think that one disadvantage of the system of penal servitude is, that it is not attended, and cannot be attended, from the nature of things, with the same motive of hope which led a man under sentence of transportation to exert himself for the purpose of gaining his liberty?—Precisely.

920. Sir *J. Pakington.*] You have just told the Committee that you have perceived a difference in the value of labour in the case of these men who were not under the influence of hope?—Yes.

921. How have you tested that difference in the value of labour?—We have tested it by the whole year's value of labour. As the number of these men have increased in the prison, so we have found that there has been a falling off in the value of the labour; the value of the labour of the year is always estimated.

922. You have taken it, I apprehend, by aggregate results, and not by testing the labour of individuals?—I am speaking of the aggregate results; but the officers also report to me that there is not the same industry among the penal servitude men, individually, as there was among the men before, who were sentenced to transportation, and had advantages attending it.

923. You spoke of the hulks at Woolwich, and said there were two hulks, one containing 528 prisoners, the other 450; have you found any bad results, in point of discipline, from the confinement of men in hulks?—There is a great difference between men confined in hulks and men confined in such a prison as Portland, where each man has his separate cell to himself.

924. You probably recollect that some 14 or 15 years ago the practice of sending men abroad for short periods was discontinued, and that they were confined in hulks in this country instead?—Yes.

925. Is it within your recollection that on the interference of the House of Commons that system was abandoned in consequence of its very bad moral results?—I was not then connected with the prison service; I do not recollect it.

926. Now that you are connected specially with this part of the prison service, is it your own experience that it is difficult to preserve discipline and good conduct in those hulks?—Very difficult.

927. Do you not think it very desirable that the system of keeping convicts in hulks should be abandoned?—Very desirable, and it is in progress of being abandoned.

928. These hulks were about to be given up?—There is a new prison building at Chatham, which will hold a great number of the prisoners now in the hulks at Woolwich.

929. You told us that the establishment at Dartmoor is divided into two parts, one for able-bodied men, and the other for infirm or invalid prisoners; how are the able-bodied men at Dartmoor employed?—They are employed in agriculture chiefly.

930. Do you find that that system works well of employing the men in agriculture at Dartmoor?—I have strong doubts that it does work well.

Capt. *I. S. Whitty.*

1 May 1856.

931. What is your objection to it?—I think that when you have to reclaim land, as is the case at Dartmoor, your work is continually going further from you; your borders are continually enlarging; when it is all brought into cultivation I question whether the number of men who would then be sufficient for keeping that land in cultivation, would justify the expense of a very large establishment.

932. But the object of such an establishment, I apprehend, is rather to reclaim men than to reclaim land; how does it work upon the men?—There I think the labour is fair enough.

933. I think in what you told us, just now, about the difference which you had observed between men under sentence of penal servitude, and men under sentence of transportation, you spoke of Portland?—Yes.

934. Do you extend the same opinions to the men who are confined at Dartmoor?—On all the public works.

935. You have, I suppose, at present, men of both those classes at Dartmoor, have you not?—Yes.

936. Do you find there that the transports are the most industrious of the two?—We have found so.

937. You mentioned to the Committee the periods of time at the end of which licences are granted, in commutation of the respective periods of transportation. You told us that prisoners under 10 years' sentence, received their licences at 4 years; under 14, at 6; 15, at 6½; and 20, at 8 years?—Yes.

938. I apprehend that the longer of those periods are at present entirely prospective, are they not. It is a new system, and time enough has not yet expired to bring these longer periods into action?—In some cases there has been time. It applies to men who were transported before the Act passed; for instance, invalids who cannot be sent abroad, and who are to be discharged in this country. There are several of those 14 years' men whose six years have expired since their sentence, and it would apply to them.

939. Then there have been cases in which these longer periods have been actually applied?—Yes.

940. But it has been in the cases of invalids?—Yes.

941. Not of able-bodied men?—No, for they would naturally have been transported.

942. With respect to able-bodied men, these longer periods are still prospective?—Yes.

943. Conversant as you are with the system in these prisons, do you anticipate any difficulty or any serious objection to keeping men in imprisonment for these long periods of time, namely, for six and a half and eight years, as regards the effect of imprisonment upon themselves?—I cannot see that it would injure a man's health being kept on public works for that time.

944. It has been stated by one of the witnesses examined before this Committee, that he considered it an objection to any extension of the present scale of penal servitude, that the latter years of imprisonment bore much more severely upon prisoners than the earlier years, and that therefore they would not be able to bear those longer periods; is it your opinion that there would be any difficulty in devising a system in those prisons where public works are carried on, under which long periods of imprisonment might be carried out without any injury to the prisoners?—I really do not see that six or even eight years on public works would injure a man's health.

945. Without referring exactly to health, do you think that, as the system is at present, a lengthened imprisonment would be so depressing to a man's mind or to his general feeling as to make it a punishment of undue severity?—I cannot say that I do, because invalids have undergone that.

946. And without bad effect?—If a further imprisonment would endanger life, it is then the duty of the medical officer to bring forward the case before the Secretary of State, that it may be considered whether the man shall be pardoned or not.

947. I put this as a question rather of the effect upon the mind than upon the body in the shape of health; do you think that there is anything in the nature of the system of these public works so depressing in its character that the latter years of a lengthened imprisonment amount to a punishment of undue severity?—I must say in answer to that, that there is scarcely any case, indeed, I do not call to mind one, in which a man has been that length of time

on

on public works, because those men who could be that length of time on public works have been sent abroad; it is only the seven and the ten years' men that we see the end of in that way on public works.

948. I have felt the difficulty of the position which I am putting to you on that ground, but I put these questions because you state that men of indifferent health at least have been detained for these long periods?—Yes, invalids.

949. And even with regard to them you have found no practical difficulty?—I cannot say that I have found any practical difficulty.

950. Speaking prospectively and theoretically, do you think from your experience in this class of prisoners that there would be the least difficulty in arranging a system under which very long imprisonments might be carried out without injury either to mind or to body?—I think that by relaxing the system at the end it might be done.

951. You are, of course, aware that the Act of Parliament adopting penal servitude in lieu of transportation contemplates the sentence of penal servitude for life?—Yes.

952. Do you think that there would be practical difficulty in arranging a system of imprisonment which might be safely visited upon a prisoner for life?—I have never had any experience of a sentence of that kind, but it does appear to me that it would be an extreme sentence to pass upon a young man, to keep him in prison for life.

953. Of course my question is directed to this, whether in cases in which justice and the law of the land require a sentence of extreme severity there is anything in the nature of imprisonment of this character which would make it improper, on the ground of health, to inflict upon a man the sentence that he shall pass the remainder of his days in labour of that description?—I really do not see that the prison life, as it is carried on on public works, ought to damage him.

954. Mr. *B. Denison.*] You told us that the men who are sentenced to penal servitude, and who expect to work it out to the end of their sentence, are less active and less ready to conform to the rules of the prison than those who are under sentence of transportation, and whose sentence may be, to a certain extent, shortened?—Yes.

955. Are you very much surprised at penal servitude having that operation upon the minds of the men?—Not at all.

956. Is it not a very natural consequence that a man of that description, who knows that he must serve either four or six years in a prison, should become a morose and more careless character than a man who has some sort of hope before him that he may, by good conduct, be released?—I think so.

957. Do you think that a man who is now sentenced to penal servitude for four years, with a certainty of serving for four years, would not be better treated upon the whole, as regards himself, and as regards society, if he were sentenced to six years, subject to being set at liberty sooner on account of good conduct?—At an earlier period than four years?

958. I leave that an open question; the suggestion being that there should be a power in the Secretary of State in the case of a man sentenced to six years' penal servitude against four, to remit a part of his sentence, do you not think that it would have a better effect upon the man's conduct generally, and induce him to exert himself and to become a better member of society?—I do, certainly.

959. Mr. *M. Milnes.*] Do you regard the labour to which a man is submitted at Portland as more severe than the usual work which a healthy labouring man in good work undergoes?—It is much the same, I think.

960. You do not think that the physical labour of a man from the working classes, transported to Portland, would necessarily produce more injurious effects upon his health than the labour of the usual daily life?—I do not.

961. Wherefore, then, is there any reason to suppose that the length of the period is likely to have anything to do with the man's good or bad health?—Because his labour is connected with imprisonment.

962. Therefore the effect upon the man's constitution will be in consequence of moral causes, and not of physical ones?—I do not see that the physical causes at Portland (taking that place for example), in a man's labour, taken by itself, would be likely to injure him more than ordinary labour elsewhere.

963. Therefore, it is not the labour in itself which would produce any injurious

Capt. *I. S. Whitty.*

1 May 1856.

urious effect upon the health of the criminal, whatever was the length of it?—I think not, if properly regulated.

964. Would not the moral effect of a long or hopeless sentence probably produce even worse results upon the mind of a criminal without the labour than with it?—I should think it certainly would.

965. Do you not find that the labour is in itself very useful as a distraction from the moral discomfort of a criminal?—Very much so.

966. Do you find that the inequality of the punishment from the previous habits of the criminal is very great?—At first it is very great.

967. Why do you say "at first"?—I was, myself, the governor of Portland Prison for some time, and many men who had been clerks and drapers, and in other in-door employments of that kind, used to complain on this point on first coming to Portland: they used to show me their hands, that they had been excoriated from working among the rocks, and they used to complain that they could never get on with that kind of work; that it was not what they had been accustomed to; but these complaints very soon ceased, and these men worked as willingly, and complained as little about their hands, after a while, as the other men.

968. If, then, criminals are to be subjected to any labour at all, do you think that out-door labour, such as you have at Portland, is in the end more equal than perhaps any other which can be mentioned?—I think it more equal than any in-door kind of employment which you could find for them.

969. I asked you a question before, as to the difficulty in the way of testing the moral improvement of a man; I asked you whether you found it difficult to establish any criterion?—One criterion is, naturally, the observed and recorded conduct of the prisoners under the prison rules.

970. Have not the governors of the prisons, or the directors of the establishments, any power to judge of the conduct of a prisoner except by those rules?—The governors and chaplains observe the man's conduct, and keep records of it; the governor is chiefly guided by the reports which he gets from his officers; and the chaplain is guided, in a great measure, by that, and also by what he sees of the man's disposition in his communications with him.

971. How far, in your experience, is the judgment of the chaplain in these matters to be attended to, speaking generally, of course?—I think great dependence is to be placed upon it.

972. You must be aware that there is a very strong feeling in the public mind, encouraged by works of fiction and other causes, that a certain amount of skilful hypocrisy and judicious temperance of conduct in a prison may enable a criminal to gain, not only the favour of the authorities, but a remission of sentence, without any real change in his character and disposition; do you think that this is a real danger, and one which is to be guarded against?—I do not think it is a real danger; a man would gain nothing on public works by hypocrisy towards the chaplain; from the system in force he could gain nothing by it.

973. At any rate, whatever other systems may be amenable to that accusation, yet you think that the system of public works would be comparatively free from it?—A man could gain nothing, that I see, from it; what I mean by that is, that if his conduct was otherwise bad, the chaplain's favourable opinion in opposition to the governor's would in no way help him to his getting the rewards which are the result of good conduct.

974. Do you find that the men ever express regret at the abolition of the system of transportation beyond the seas?—Several men, to my own knowledge, have stated that they would much rather be sent abroad than retained at home; they would rather have a new field open to them.

975. Do you mean under the old system or under the new?—I mean that they would rather be transported.

976. Is the doing away, then, with the old system of transportation looked upon by the men with regret?—By many.

977. Do you find the men willing or unwilling to be transported to public works at other places out of the country, such as Gibraltar and Bermuda?—They like a change; so far many of them would like to go to Gibraltar or Bermuda.

978. Have they less sense of shame and disgrace in being removed to another part?—I do not know that that is any motive with them.

*Lunæ, 5° die Maii*, 1856.

MEMBERS PRESENT.

| | |
|---|---|
| Mr. Baines. | Mr. Massey. |
| Sir John Pakington. | Mr. Beckett Denison. |
| Mr. Adderley. | Mr. Deedes. |
| Mr. Serjeant O'Brien. | Mr. Seymour Fitzgerald. |
| Mr. Wickham. | Mr. Monckton Milnes. |
| Mr. John Wynne. | Mr. Ker Seymer. |

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

Captain *Irwine S. Whitty*, called in; and further Examined.

Capt. *I. S. Whitty.*

5 May 1856.

979. *Chairman.*] IS there any point of the evidence which you gave at our last meeting to which you wish to refer now for the purpose of explanation?—There are one or two points.

980. Will you have the goodness to state them?—With respect to convict earnings, I mentioned that 3*l.* 5*s.* was the outside that a convict could generally gain in a year; but I should have also stated that a certain class of convicts had an opportunity of gaining 6*d.* a week additional to that; these were men who, at the time that there was a difficulty in sending convicts abroad at the minimum periods, were compensated in some degree for their longer detention in prison, and one part of that compensation was an additional 6*d.* a week as gratuity. With regard to the penal servitude men, in the different stages which they are passed through, they may also, after a certain time of imprisonment, obtain additional earnings, which will be explained by the notice to penal servitude prisoners which I now hand in.

[*The Witness delivered in the same, which is as follows:*]

NOTICE to CONVICTS under Sentence of TRANSPORTATION and PENAL SERVITUDE.

TRANSPORTATION for certain offences having been abolished by Act of Parliament, and certain periods of imprisonment of much shorter duration under the term "Penal Servitude" having been substituted in place of the sentences of seven and ten years' transportation which had been usually awarded, no remission, as a general rule, of any part of the term of penal servitude will be granted; the period of detention in place of a longer sentence of transportation having been settled by law. The Secretary of State will, however, be prepared to consider the case of any convict whose conduct may be the subject of special recommendation. The Secretary of State is also desirous, as a general rule, of holding out encouragement to good conduct by establishing successive stages of discipline, to each of which some special privileges will be attached.

Convicts of good conduct, and maintaining a character for willing industry, will, by this rule, be enabled after certain fixed periods, to obtain the higher stages, and gain the privileges attached to them.

For the present, and until further orders, the following rules will be observed:—

All convicts under sentence of penal servitude will be subjected to a period of separate confinement followed by labour on public works.

Convicts under sentence of transportation will be subject to the same discipline so long as they are imprisoned in this country.

SEPARATE CONFINEMENT.

1. Convicts, as a general rule, will be detained in separate confinement for a period of nine months from the date of their reception in a Government prison.

2. Every convict who, during a detention of six months in the prison, may have conducted himself in a satisfactory manner, will be allowed to wear a badge, which will entitle him to receive a visit from his friends. A second badge, with the privilege of a second visit, will be granted at the end of three additional months, provided his conduct has continued to be satisfactory.

Capt. *I. S. Whitty.*

5 May 1856.

3. Convicts wearing badges will be recommended for gratuities to be placed to their credit, according to the scale approved by the Secretary of State.

4. In the event of a convict being deprived of a badge through misconduct, he will, at the same time, forfeit all advantages he had derived from it, including the gratuity already credited to him (if so ordered). He may, however, regain the forfeited badge after an interval of two months, if specially recommended by the governor and chaplain.

5. On removal of convicts from separate confinement to public works, they will be placed in the first, second, or third class, according to their conduct, attention to instruction, and industry. This classification will affect their position in the following stages of their servitude.

6. Convicts deemed to be incorrigible will be specially dealt with.

PUBLIC WORKS.

On the reception of a convict on public works, the remaining term of his sentence, reckoning twelve months from conviction, will be divided into four portions or stages of discipline, any odd weeks or months being placed in the first stage.

*Discipline of the First Stage.*

Convicts undergoing the first of the four portions of penal servitude on public works, will be subject to the ordinary discipline of the prison, and be classified as usual in 1st, 2d, or 3d class.

*Second Stage, comprising the Second Quarter of the Period on Public Works.*

Convicts during this stage, will be permitted to write and receive letters, and have visits, every second month.

They will also receive an addition of 6*d.* to the ordinary weekly gratuity to which they may be otherwise entitled.

A badge denoting the promotion to this stage will be worn by each convict.

*Third Stage, comprising the Third Quarter of the Period on Public Works.*

Convicts who gain this stage, will have the privilege of writing and receiving letters, and having visits, monthly.

An addition of 3*d.* a week to the gratuity of the second stage, making 9*d.* additional to the ordinary gratuity, will be granted to convicts in this stage.

Some addition to their dinner on Sunday, including half a pint of beer, will be allowed.

Tea may be also substituted for gruel at supper.

An additional badge, denoting the promotion to this stage, will be worn.

*Fourth Stage, comprising the Last Quarter of the whole Period on Public Works.*

An addition of 3*d.* to the gratuity of the third stage, or 1*s.* a week additional to the ordinary gratuity, will be granted.

An occasional variety of diet will be permitted.

Lights will be allowed in the cells an hour later than under the existing regulations.

A different dress from that of the other convicts will be worn.

If unfavourable reports should be received of a convict from separate confinement, or his conduct on public works be unsatisfactory or only moderately good, his progress towards the advantages of the several stages will be proportionably retarded, and he will be liable for misconduct to be removed back into any previous stage.

Captain *Whitty.*] It will be seen by that notice that after certain stages of imprisonment penal servitude prisoners of good conduct are allowed to acquire additional earnings as a reward for industry and conduct.

981. Is there any other point to which you wish to direct the attention of the Committee by way of explanation of your former statement?—Yes; with respect to the accommodation at Dartmoor Prison it is intended to reduce the number of convicts at Dartmoor to about 800, invalids exclusively; these invalids being men who are considered fit only for light labour.

982. Is there any other point upon which you desire to make any observations?—There is one other point; I stated that the effect of penal servitude sentences, as compared with those of transportation, was found unfavourable for discipline and industry in the prison; I wish to observe that that appears not only of importance as regards the trouble it may give to the officers, and the danger which may attend it, but that it is found that a state of general disquietude among the prisoners, and a tendency to general insubordination, are very unfavourable for producing

producing any kind of moral or religious improvement among them, and, therefore, I consider the difference between the two sentences to be very important.

983. Is there any other point to which you wish to allude?—There is no other point.

984. You stated, when you were here before, that the hulk system was in process of abandonment?—Yes.

985. Is it proposed to get rid of it altogether?—Whenever an opportunity occurs.

986. And you are now lessening it as far as possible?—It is now being lessened as far as possible.

987. I suppose by "opportunity" you mean whenever you can get increased accommodation elsewhere?—Whenever sites can be got for prisons in place of the hulks.

988. Mr. *Wickham.*] There is a large building at Chatham, is there not?—There is.

989. Mr. *Adderley.*] When you say that the effect of penal servitude sentences has been unfavourable compared with the transportation sentences, of course you allude to old transportation sentences?—Yes.

990. Will there be the same unfavourable comparison, do you suppose, in the two sentences under the new Act when they are all working together?—I think there will.

991. Will you state why?—The long-sentence men under sentence of transportation will be selected for transmission to a colony at an earlier period in consequence of their good conduct; therefore the penal servitude men will see that these men under sentence of transportation are actually gaining the remission of a part of their imprisonment in consequence of good conduct, while they themselves are not.

992. Supposing the system of licences to be abandoned, the term of imprisonment under both sentences, whether of penal servitude or of transportation, will be equally rigid, and not subject to modification?—I apprehend that all able-bodied men will still continue to be transported to Western Australia.

993. Will not that portion of their sentence be an addition to the term of imprisonment which, under both sentences, will be equally unalterable?—The system under which men have been transported hitherto has been, that at a certain period of their sentence, if their conduct has been good, they have been sent abroad with tickets-of-leave; if their conduct has been unfavourable, they have been detained longer in this country; so that, in fact, a man of good conduct gets sooner sent abroad, and is sooner in a state of comparative freedom than he would otherwise be.

994. Am I to understand, that, under the Act of 1853, supposing no licences to be at large to be given under sentences either of penal servitude or transportation, the sentences of transportation will still be subject to mitigation, more than the sentences of penal servitude?—I apprehend so.

995. In what way?—In the same way as they have been hitherto. I apprehend that the governor of the colony will have instructions as to the time that these men are to have a licence in the colony.

996. Will you state in what way a sentence to penal servitude for six years, and in what way a sentence to transportation for 14 years, will be carried out under the Act of 1853?—With respect to a prisoner for six years' penal servitude, it is intended, as far as our instructions go, that he shall be kept for six years actually in prison, and then be discharged; a 14 years' transportation man, if he is kept in this country, will be kept for six years in imprisonment, and then be discharged, under a licence, in this country.

997. How will a sentence to transportation be carried out, under which the criminal is sent at once abroad?—That will depend upon the instructions which the governor of the colony has. We lose sight of the men altogether, when they go abroad. I should apprehend that such a man would remain abroad during the whole of his sentence of 14 years, but under what conditions I cannot say, because it would depend upon the instructions to the governor of the colony with regard to him.

998. Then how will a sentence to transportation, under any circumstances, be more liable to mitigation than a sentence to penal servitude?—I am speaking of

Capt. *I. S. Whitty.*

5 May 1856.

the past mode of carrying out sentences to transportation. My intention was to contrast the present system of penal servitude with the system that existed before of dealing with convicts under sentence of transportation.

999. Do you think that, comparing sentences to penal servitude with sentences to transportation, under the Act of 1853, when the two were working together, there will still be that unfavourable contrast between the sentences to penal servitude and those to transportation?—I think the circumstances are quite different from what they were before.

1000. You do not see that there will be the same unfavourable comparison between the two?—No, certainly not; it will be diminished. Unless the sentences of transportation are carried out as they were before, it will not be the case; if they are carried out as they were before, it certainly will be.

1001. You say that if prisoners are kept the whole time of their sentence, there will be little inducement to good conduct; will not there still be the motive to good conduct which is produced by the system of earnings in prison?—I think I said little comparative encouragement.

1002. Do you suppose that the system of earnings in prison will not be a sufficient inducement to good conduct without the additional encouragement of a mitigation of term?—I really do not.

1003. When you stated that there was a steadily increasing scale of revocation of licences, are you sure that during the whole time to which that scale applies the returns were equally accurate?—The number of revocations, I consider, were; I am confining it entirely to revocations; not to men who have been re-committed.

1004. Do you consider that sending discharged prisoners to the place of conviction is a good system?—I think it is, except a man can show that he has more decided opportunities of sufficient employment or support at another place.

1005. Have you ever turned your mind to devising a better mode of discharging prisoners?—I have often thought of it.

1006. Have you any plan which you could suggest?—I really could suggest no better plan than sending the man to the place of his conviction, and one great reason, I think, why it is well to send a man to the place of his conviction is, that he is known there.

1007. Why do you consider that a good point?—I think in many instances it is a good point; I think a man is more likely to guard his conduct if he knows that people are aware of what he was before.

1008. Have you ever considered the establishment of places of reference for the employment of discharged prisoners?—Under Government?

1009. Either under Government or under private management?—I have often thought of it.

1010. Do you think favourably of the plan?—I do not think favourably of any plan by which men in the position of licensed convicts can be brought together in large numbers.

1011. Suppose there were such places in every large town throughout the kingdom?—That would completely obviate the difficulty which I am mentioning, because the men would then be scattered, so that they could not be in any town, I suppose, collected in a large number.

1012. Have you at all carefully considered that subject?—I have naturally thought of it a great deal, from the difficulties which have suggested themselves in these men getting employment.

1013. Do you consider that any such institutions would be best in the hands of Government or in the hands of private individuals?—I should think they would be best in the hands of private individuals.

1014. Will you state your reasons for preferring the management of private individuals?—I think the prisoners themselves would be more likely to resort to them if they were in the hands of private individuals; I think if they were in the hands of Government they would to a certain extent feel that they were still prisoners, and that, I think, would operate as an objection in the minds of many.

1015. Have you other reasons for preferring the management of such institutions by private individuals?—No, I think that is the main reason.

1016. Can you give us any opinion as to which of the two sentences, penal servitude or transportation, under the Act of 1853, is generally most feared?—I think

I think penal servitude is most feared, but it is merely a matter of opinion on my part.

1017. Still you do entertain that opinion?—I do.

1018. Do you consider that the class of worst criminals are the right class to transport, treating the less serious crimes by sentences of penal servitude, or would you reverse that order of punishment?—I should certainly think it was of more advantage to this country to get rid of the worst class of prisoners.

1019. Have you ever seen a ticket-of-leave endorsed with any such order as this, "Prisoner not to be employed in such and such a county"?—"Not to return to such a county" I have seen.

1020. Have you ever seen one which stated, that a prisoner was not to be employed, we will say in Middlesex?—I do not remember ever seeing one expressed in that way.

1021. But it is frequently "Not to return to such a county"?—Yes.

1022. And supposing he did return to such a county, would he be liable to have his licence revoked?—Yes.

1023. Mr. *B. Denison.*] Do you suppose that any parties who had been in prison, and who went to the refuges which the honourable Member alluded to, would to any extent get employment; would application be made at such places for men, for any particular employment?—I doubt that applications would be made to those places for labour. As I understood the question, they were to be employed there.

1024. From what you know of society, do you think that parties would apply for labourers at such a place?—My idea of such a place was, that labour would be there provided for them; not that they would go there and wait till they were asked for.

1025. There was another question which the honourable Member put to you about the impression which the different sentences would make upon the minds of these parties, and which of them would produce the most effect. Do you believe that any of these parties calculate beforehand what is likely to be the sentence, whether penal servitude or transportation?—Not before they commit their offence, I think; but I think it is very likely that when they have committed the offence and are taken up, they then speculate upon which sentence they are likely to have.

1026. Is not the sentence upon an individual intended as much to deter other persons from committing such an offence, as to punish the offender himself?—That is very true.

1027. Would it not be more natural for the parties who are not before the court at the time to calculate upon which would be the worst sentence of the two; it is too late for the prisoner at the bar to calculate?—He speculates upon which sentence he is likely to have.

1028. He may speculate, but it is evidently too late for him to calculate, because he has committed the offence, and he stands at the bar. Do you believe that such parties ever calculate before they commit an offence what is likely to be the result of the trial as regards the punishment?—I think it is very doubtful that they do. When a man is about to commit an offence, I am of opinion that he does not think much about the punishment which is likely to follow.

1029. Mr. *Wickham.*] Do you know what is the actual treatment intended to be pursued of parties transported since the year 1853?—No further than that I believe it is intended to send them to Western Australia.

1030. And not to keep them at all in this country for any portion of their sentence?—I apprehend not, except they are invalids; if they are fit for transportation, I apprehend that they will be transported.

1031. Immediately?—They go through a stage of separate confinement in this country, and then they are sent to public works, and from those public works they are sent abroad, I apprehend, as opportunity occurs.

1032. Are you aware what actual regulations at present exist on that subject?—That is the regulation.

1033. How long are they to be detained?—Until an opportunity occurs of sending them abroad.

1034. How long are they to be detained in separate confinement?—Nine months is the general time.

1035. Mr. Serjeant *O'Brien.*] Are you aware of any reason why the system of

Capt. *I. S. Whitty.*

5 May 1856.

of shortening the period of punishment according to the good conduct of a prisoner, should not apply to the case of penal servitude as well as to the sentence of transportation?—I am not, supposing that the length of sentence was allotted in accordance with it.

1036. There is no provision for that in the Act of Parliament?—I apprehend that there is nothing in the Act to prevent a licence being granted to a penal-servitude prisoner.

1037. Does the notice produced from the Secretary of State's office apply to all convicts, male as well as female?—I think that Captain O'Brien handed in one as to females.

1038. Is there a similar rule as to all convicts, male and female?—Yes; there are similar notices issued with regard to both male and female convicts.

Colonel *Joshua Jebb*, R.E., C.B., called in; and Examined.

Colonel *J. Jebb*, R. E., C. B.

1039. *Chairman.*] WHAT is the office which you hold?—Chairman of the Directors of Convict Prisons.

1040. How long have you held that office?—Since the passing of the Act, 29th July 1850.

1041. I believe the subject of the inquiries of this Committee has been very much under your consideration officially?—It has.

1042. In all its parts?—Having been connected with the convict discipline since Pentonville and Parkhurst were first erected, now about 18 years ago, the subject naturally has engaged much of my attention.

1043. Considering the office which you hold, and the opportunities which you have had of attending to this subject, I will, at the risk of something like repetition, put to you some questions which have been put to the other witnesses. It is very important, I think, that we should have your views upon the whole subject, as far as we can. You remember the passing of the Act 16 & 17 Vict. c. 99?—Yes.

1044. Before that time, had there been discussions as to the question of diminishing the number of prisoners to be transported?—The question of diminishing the number of convicts to be transported was, I think, under consideration in 1851. It appeared, on reference to the criminal tables, that, on an average of 10 years previous to that period, the following were the relative numbers sentenced to transportation and imprisonment respectively; viz., sentences of 7 and 10 years' transportation, 2,626; imprisonment for 3 years, and above 2, only 5; 2 years and above 1, 473. The object of mentioning these numbers is to show that a great void existed in the sentences of imprisonment which might have been passed in county prisons, before resorting to a sentence of transportation. The practice was, to pass from a very moderate sentence of imprisonment to the sentence of seven years' transportation. With a view to remedy this defect, and at the same time to afford the means of reducing the number to be sent abroad, it appeared that the Resolutions of the Committee of the House of Commons of 1850 were directed to the point of reducing the number to be sent abroad, by increasing the number who should be sent to prisons for moderate periods of one or two years. The Resolutions of the Committee were as follows:—"14. That after prisoners under long sentences have undergone a period of separate confinement, the remainder of their sentences ought to be passed under a system of combined labour with effectual precautions against intercourse. 15. That this object would be greatly facilitated by the erection of district prisons at the national cost for the reception of prisoners under long sentences, after they have undergone such previous separate confinement. 16. That such district prisons should be maintained at the national cost, and the government of such prisons, and all appointments and salaries of officers, ought to be under the control of Her Majesty's Government." The object of some of these resolutions was, that supposing a sentence of three years' imprisonment to be passed by the quarter sessions, the first probationary period of separate confinement for nine months or twelve months should be carried out at the county prison, and that the man should then be sent to one of the district prisons which are alluded to. No practical steps were taken by the Government at the time for carrying into effect these resolutions, but they have practically been carried out to a great extent, by the passing of the 16 & 17 Victoria, in which there have been substituted in certain cases sentences of penal servitude for those of transportation;

tion; the difference is, that the Government in this case, as these sentences may be regarded as commutations of sentences of transportation, have taken the administration of the whole period, including the separate confinement, into their own hands.

1045. Can you state to the Committee what were the regulations in force immediately prior to the passing of that Act in 1853?—The notice to prisoners, under sentence of transportation, would perhaps best explain that to the Committee; I hold it in my hand, and will put it in as part of my evidence.

1046. When was that notice first adopted?—how long had it been in use prior to the passing of the Act of the 16 & 17 Vict.?—I should think about six years; it was adopted when Portland was first established, under the authority of Sir G. Grey.

1047. Will you read it?—This notice was suspended in every cell; both in the cells of those who were in separate confinement, and of those who were on public works. "Separate confinement.—Prisoners may be recommended for removal on special grounds at any time, but in ordinary cases they will be detained in separate confinement for 12 months. The conduct and character of each prisoner will be carefully watched and noted. Deserving prisoners will receive a good conduct badge, to be worn on the dress after they have been a certain time in the prison. On removal from the prison to public works, prisoners will be placed in one of three classes, according to the report of their character, industry and moral improvement, while in separate confinement. Prisoners who are deemed to be incorrigible will be specially dealt with. First-class prisoners removed to public works will, by continued good conduct, become eligible to be recommended for embarkation at the periods noted in the following scales. Second class prisoners will be liable to three months, and third class prisoners to six months additional detention beyond the period fixed for the detention of first class prisoners." Then we come to public works.

"Ordinary periods of detention on public works in this country proportioned to the terms of different sentences for convicts who have previously passed 12 months in separate confinement.

"Scale, No. 1.

"A prisoner sentenced to 7 years, for a period not less than 2 years.

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Ditto | - | - | - | 10 | „ | - | - | „ | - | - | 3½ „ |
| Ditto | - | - | - | 15 | „ | - | - | „ | - | - | 6 „ |
| Ditto | - | - | - | 20 | „ | - | - | „ | - | - | 8½ „ |
| Ditto | - | - | - | life | | - | - | „ | - | - | 10½ „ |

"If a prisoner has been more or less than one year in separate confinement, the difference will be deducted or added to these periods.

"These periods, together with the previous term passed in separate confinement, and the time occupied in the voyage, are calculated to make up about half the period of sentence; it is, however, to be clearly understood that it is only in cases of prisoners conducting themselves in a satisfactory manner that any such remission of their sentence can be recommended, and that they can only be embarked as opportunities offer, and as may be convenient to the public service." What I am now about to read is an important point: "As a further encouragement, however, such prisoners as conduct themselves in an exemplary manner, and who show by their general demeanor and willing industry that they have profited by the instruction they have received, and are likely to become useful members of society when released from penal discipline, will be eligible to be specially recommended to the Secretary of State at the expiration of a period short of that on the foregoing scale, but not less than according to the following scale, No. 2 (that is to say);

"Minimum period of detention on public works applicable to prisoners whose conduct is exemplary:

"A prisoner sentenced to 7 years, for a period not less than 1 year.

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Ditto | - | - | - | 10 | „ | - | „ | - | - | 1¾ „ |
| Ditto | - | - | - | 15 | „ | - | „ | - | - | 3 „ |
| Ditto | - | - | - | 20 | „ | - | „ | - | - | 4 „ |
| Ditto | - | - | - | life | - | - | „ | - | - | 5 „ |

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

"If a prisoner has been more or less than one year in separate confinement, the difference will be deducted or added to these periods, as before explained.

"In order that every prisoner may be aware of his situation and the effect which his conduct may have in diminishing or extending his period of probationary discipline, records of his conduct, character, and industry will be kept by the governor, chaplain, and other officers, which will be examined monthly (or oftener if required), and the result communicated to the prisoner. If a prisoner's conduct has been in all respects exemplary during the month, he will receive a badge to be worn on his arm, which, if not forfeited by subsequent misconduct, will afterwards enable the director to recommend him for a remission of one month of the period of detention set forth in Scale No. 1. Thus a prisoner under sentence for seven years, who had passed 12 months in separate confinement, would, by exemplary conduct for 12 months on public works, place himself in a position to be specially recommended for 12 months remission of the period laid down in Scale No. 1, and might thus become eligible for embarkation in the minimum period of 12 months as laid down in Scale No. 2; or a prisoner under sentence for 10 years, having passed a like period in separate confinement, conducting himself in an exemplary manner, would place himself in a position to be recommended for embarkation in the minimum period of one year and three-quarters, as laid down in Scale No. 2, instead of being detained three years and a half as prescribed for ordinary cases in Scale No. 1. Prisoners entitled to a less number of badges would be eligible for recommendation at some intermediate period." Then the notice goes on as to the tickets-of-leave in the penal colony; "1. Rules and regulations for the maintenance of good order among ticket-of-leave holders are framed and promulgated in the colony. The following are at present some of their principal conditions, but it must be distinctly understood that they are liable to be varied as may be judged to be necessary and proper by the authorities on the spot. 2. A convict embarked from this country as a ticket-of-leave holder will not pass out of the custody of the Government in the colony, until he shall be engaged for at least a year, for service with some private employer, who shall be responsible for making a certain payment, as hereafter explained in paragraph 5. If suitable service cannot be obtained, the convicts will be employed by Government at wages, out of which they will receive clothing and rations. A small proportion will be paid to them in money, and the remainder credited towards the liquidation of the amount required to be paid to the Government. Until this amount is paid, a convict will only be entitled to a probationary ticket-of-leave, but the full privileges of a ticket-of-leave will be granted as soon as he shall have paid the sum required, provided his conduct has been in all respects satisfactory. 3. The ticket-of-leave holder is required to remain in a particular district, within which he may hire himself out for wages; this is usually a country district, and he must not quit it without obtaining a pass from a magistrate; he must register his place of residence and any change of it; he must be at his own dwelling from 10 o'clock at night until day-break; and he must report himself at certain periods in the year at the police office of his district. For some classes of offences he is liable to summary jurisdiction, and his ticket-of-leave may be recalled for misconduct, in which case he will be subjected to penal labour." This notice was hung up in every cell, so that all men were made aware of the exact conditions which they had to abide by, and of the encouragement which was held out to them for good conduct. As regards the operation of it, I can only say that though the two scales which regulate the period of detention were made, one for men who conducted themselves well, and the other for those who conducted themselves in an exemplary manner, so many of them conducted themselves in an exemplary manner, that I believe at least nine-tenths of them became eligible for release at the end of the minimum period. That gratifying result was obtained under Captain Whitty, who organized the establishment.

1048. Will you describe to the Committee the steps that were taken on the passing of the Act of the 16 & 17 of Victoria with reference to the convicts who were at that time under sentence of transportation?—At the passing of the Act there were about 6,700 men in this country under sentence of seven and ten years' transporsation,

1049. You are speaking of Great Britain, I believe?—Yes; the Act had limited

limited transportation to 14 years, enforcing penal servitude for shorter sentences. It was therefore thought right to commute all sentences for seven and 10 years into imprisonment or penal servitude, with release on licence in this country. It was a very important question to determine what should be done with these men; their sentences, from circumstances, could not be carried out. The men had had the notice referred to before them from the first day of entering a Government prison, and they therefore had strong hopes of embarkation at the regular periods. After a considerable discussion with reference to the peculiar claims of these men, it was determined to commute their sentences into a shorter period than had been usual. It had been the practice to commute sentences of seven and ten years' men into detention for half the periods of the sentence of transportation, but, in consequence of these men having experienced so great a disappointment, and their having conducted themselves in so exemplary a manner, it was determined in the case of the seven years' men that they should be released in the minimum period of three years, and the ten years' men in four years; also, that advantage should be taken of the provisions of the Act for granting licences to them, instead of releasing them perfectly free, as they would have been under the old system. The 14 years' men, some of whom had served a considerable proportion of their sentences, were to be brought forward in six years. The 15 years' men were to come forward in six-and-a-half years; the 20 years' men in eight; and the life sentences were to be considered after a lapse of 10 years. Those were the measures which were immediately adopted with reference to placing before these convicts some certain prospect in substitution of that which they had had before them, and I believe it was, generally speaking, satisfactory to them; it was thought that the Government had dealt fairly and justly.

1050. You are speaking of those persons who had had these sentences passed upon them, whatever portion had been gone through at the time?—Whatever portion had been gone through was accounted for in the several periods I have named.

1051. What, in your opinion, were the effects of the suspension of transportation on the large body of prisoners in confinement at the time of the passing of the Act of 1853?—There was a very general feeling of disappointment among them, but the high standard of moral discipline which had been attained, and the confidence they had in their officers, were such, that it did not break out in any open expression of dissatisfaction; they patiently bore the delay which occurred previously to their receiving any certain prospect, and were generally very well-conducted.

1052. What are the numbers which have been released on licences since the passing of the Act?—I would wish to confine myself, as it will give a more simple view, to the return which was presented to the House of Commons, dated the 11th of March of this year; a few additional men have been released since; but it will be convenient, I think, to confine the explanation to those numbers mentioned in the return, which was as follows, and referred to Great Britain: the number of convicts who since the passing of the Act of 16th and 17th Victoria, chapter 99, have received orders of licence, is 5,152.

1053. Mr. *B. Denison.*] Did the 6,700 apply only to Great Britain?—Yes.

1054. Then the two numbers correspond in that respect?—Yes; the number of convicts who, after receiving such orders of licence, have been convicted of or charged with subsequent offences, is 447. The number of convicts whose orders of licence have been revoked, is 179. The number of convicts whose licences have been refused or withheld for misconduct, is 554. I would wish to offer some explanation upon these numbers. From the 8th of October 1853, the date when the provisions of the Act came into operation, to the 11th of March 1856, a period of two years and five months, there have been released on licence 5,049 males (the females make up the rest); of these there have been committed to prison 424, of whom 404 only have been convicted; the remainder having been acquitted or otherwise disposed of. With respect to the 554 whose licences have been withheld, it merely indicates the number who by some act or acts of misconduct have, during their three or four years' confinement, forfeited a month or months, which has delayed the period when they would otherwise have been eligible for release. The following statement will place these statistics in a more detailed form. The number who have been released from prisons in Great Britain is 4,303;

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

4,303; the number released from Bermuda and Gibraltar is 435, and the number of juveniles from Parkhurst 311, which makes up the number 5,049. The number (of the 5,049) whose licences have been revoked, is 173. The number of those who have been returned to the convict prisons under fresh sentences, not requiring the licences to be revoked, is 230, which makes up the 404. This number is about 8 per cent. upon the whole number released; and that extending over a period of two years and five months, will give an average of about $3\frac{2}{10}$ per cent. for each year since the system has been in operation, as far as we know. The means of obtaining this information respecting the committal to prison of men under licence, convicted of fresh offences, was very limited at first; but on the 15th of February 1855 the Secretary of State directed a letter to be written to the visiting justices of all prisons, of which the following is a copy:—"Gentlemen,—It being extremely desirable that the Home Department should be in possession of accurate information, so far as the same can be obtained, of the re-committal to prison of individuals released from confinement, by pardon or on orders of licence, and of the circumstances leading to such re-committal, I am directed by Secretary Sir George Grey to request that you will take such measures for ensuring the transmission to this office of a report of every case of this kind which may be discovered in your prison, stating the nature of the new charge against the prisoners, and the particulars, as fully as they can be given, of the prisoners' conviction and release. I am, &c. (signed) *H. Waddington.*"

1055. *Chairman.*] Before the issuing of that letter, had you information, which, in your judgment, could at all represent the true state of facts?—It is perhaps negative evidence, but we have sources of information which are, I think, trustworthy; I allude to the application made by the convicts for the balance of their gratuities, and to the correspondence. The Committee probably has been informed that a certain gratuity is credited to each prisoner, and this accumulates to his credit until the period of his discharge. It is usual when the sum amounts to more than 5 *l.* to pay the man a proportion of it by a post-office order, leaving him to apply for the remainder at the expiration of three months. This application must be accompanied by a certificate from a magistrate, a clergyman, an employer, or some respectable person, that he is earning an honest livelihood up to the date of the three months after his discharge. Of 1,242 applications which had been made up to the 31st of December last, 1,225 had been satisfactory, and 17 only were of a contrary character. The required certificate had been given in these cases by 851 clergymen, 214 magistrates, 177 employers, and others. The total number who had left balances up to that period were, however, 1,828, so that 586 remained to be accounted for; of these the cause of no application having been made remains to be explained. Deducting those whose term of three months had not expired, and other cases which are easily explained, there remained only 145 out of a total of 1,828, concerning whom further explanation was necessary; in this number are included some who had forfeited their licences, others who had left the country, and others who, from a wish to conceal themselves, had been deterred from holding communication with the prison authorities. Of the whole number discharged, 2,052 had left no balance, and cannot, therefore, be judged of by this test; but as these generally were men who had been a shorter time in prison, and therefore had less balance of gratuity due to them, there is no reason to suppose that they were not quite as well-conducted as those who had left balances.

1056. You have no positive information, as I understand you, with regard to the cases, before the issuing of that letter from the Secretary of State's Office in February 1855; but you infer from the facts which you have just stated to the Committee, those results which you have mentioned?—I think that the results would be the same; I do not see reason to believe that they would be otherwise.

1057. Since the issuing of that circular in February 1855, has there been what you consider full and accurate information transmitted?—I think so; of course there must have been some who have escaped detection; but considering that the men, almost without exception, go back to the places from which they came, with a view of obtaining employment, and that they generally make their applications for the balances from the employer to whom they first go, or at the same place, that the police have the same, or perhaps better, means of detecting them than they have of detecting other criminals, I do not see but that we have

have a fair representation, not of course to the full amount; but there is so large a margin left, that in my opinion the result of the measure of releasing men on license has been most satisfactory, far more so than I anticipated. I would beg permission to advert to the crimes for which the 404 convicts have been convicted. The following is an analysis: against the Vagrant Act, there were 38; for assaults, 20; for assaults on the police, 11; for offences against the game laws, 8; for desertion, 7; for misdemeanor, 20; making altogether 104 of that class of offences; for picking pockets and theft, 34; for common larceny, 133; for felony and offences of a grave character, 103; making altogether 270; awaiting sentence, 30; which makes a total of 404.

1058. Have you information which you can give the Committee with regard to the numbers released in the different counties?—Yes; the numbers released in the different counties up to the 31st December last have been as follow:—In Bedfordshire 13, Berkshire 58, Buckinghamshire 26, Cambridgeshire 53, Cheshire 68, Cornwall 21, Cumberland 10, Derbyshire 37, Devonshire 98, Dorsetshire 28, Durham 42, Essex 69, Gloucestershire 64, Hampshire 130, Herefordshire 22, Hertfordshire 44, Huntingdonshire 12, Kent 102, Lancashire 557, Leicestershire 53, Lincolnshire 65, Middlesex 926, Northumberland 65, Nottinghamshire 55, Norfolk 73, Northamptonshire 42, Oxfordshire 42, Rutlandshire 4, Shropshire 31, Somersetshire 211, Staffordshire 146, Suffolk 63, Surrey 104, Sussex 38, Warwickshire 198, Westmorland 9, Wiltshire 52, Worcestershire 66, Yorkshire 311; Wales 96; making altogether 4,104.

1059. You have given us the actual numbers released in the several counties?—Yes.

1060. Is there any other information contained in that table to which you think it material to draw the attention of the Committee?—The population of these different counties is taken from the census returns; and the proportion of ticket-of-leave men to 10,000 of the inhabitants would be as follows: 1 per 10,000 in Bedfordshire, $3\frac{4}{10}$ in Berkshire, $1\frac{6}{10}$ in Buckinghamshire, $2\frac{9}{10}$ in Cambridgeshire, $1\frac{5}{10}$ in Cheshire, $\frac{6}{10}$ in Cornwall, $\frac{5}{10}$ in Cumberland, $1\frac{2}{10}$ in Derbyshire, $1\frac{7}{10}$ in Devonshire, $1\frac{5}{10}$ in Dorsetshire, $1\frac{1}{100}$ in Durham, $1\frac{2}{10}$ in Essex, $1\frac{4}{10}$ in Gloucestershire, $3\frac{2}{10}$ in Hampshire, $1\frac{9}{10}$ in Herefordshire, $2\frac{6}{10}$ in Hertfordshire, $1\frac{9}{10}$ in Huntingdonshire, $1\frac{6}{10}$ in Kent, $2\frac{7}{10}$ in Lancashire, $2\frac{3}{10}$ in Leicestershire, $1\frac{6}{10}$ in Lincolnshire, $4\frac{9}{10}$ in Middlesex, $2\frac{1}{10}$ in Northumberland, 2 in Nottinghamshire, $1\frac{7}{10}$ in Norfolk, 2 in Northamptonshire, $2\frac{4}{10}$ in Oxfordshire, $1\frac{7}{10}$ in Rutlandshire, $1\frac{3}{10}$ in Shropshire, $4\frac{7}{10}$ in Somersetshire, $2\frac{4}{10}$ in Staffordshire, $1\frac{9}{10}$ in Suffolk, $1\frac{5}{10}$ in Surrey, $1\frac{1}{10}$ in Sussex, $4\frac{2}{10}$ in Warwickshire, $1\frac{5}{10}$ in Westmorland, $2\frac{4}{10}$ in Wiltshire, $2\frac{3}{10}$ in Worcestershire, $1\frac{5}{10}$ in Yorkshire, and $8\frac{2}{100}$ in Wales.

1061. If I have heard those figures rightly, Middlesex and Warwickshire seem to be the only two counties where the proportion goes above four per 10,000?—It is nearly five per 10,000 in Middlesex, and that is in two years and five months. I think this proportion has not been calculated to create the great degree of alarm which has existed about it.

1062. Mr. *B. Denison.*] Do you mean that there is only one-eighth out of 10,000 persons returned into Yorkshire, and that there are two-sevenths returned into Lancashire?—Yes; those are the facts.

1063. But these are released prisoners?—We have discharged on license so many; the absolute numbers are given.

1064. It strikes me that there is a greater amount of crime in this return in respect of Yorkshire than there is in respect of Lancashire?—No; with respect to the table which I have put in, and which gives the per-centages of license-holders who have been sent into different counties, it probably equally represents the proportion of prisoners who are left in the prisons. With permission of the Committee, I will make a few observations on the general results. I think it will appear, from a consideration of the foregoing returns, that a judicious system of discipline applied for a sufficient period to bring out its effects, will make a tangible impression upon very hard and obdurate materials. There can be no doubt that the convicts who have been released on license were, at the outset, both collectively and individually, worse than others of the criminal class, who, by the state of the law and the practice of its administration, escaped the longer terms of imprisonment, and were committed for the shorter ones; whilst the former have been subject to a course of discipline and training, the latter have been passing successive periods within a prison, and indulging their criminal propensities for corresponding

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

periods out of it. And what has been the result? The former, who are represented by the large number released on license from the convict prisons, are, as a general rule, endeavouring to regain their characters, and to become useful in their stations, whereas the latter, as a more general rule, continue to prey upon society. These indications more than confirm the opinion expressed in my Report for 1852, to the effect that 1,000 prisoners discharged from the convict prisons after periods of three or four years' corrective discipline and industrial training, would be far less injurious to society than 1,000 prisoners discharged at the doors of some of our large prisons, from which there issue, in some cases, as many as 8,000 or 10,000 in the course of a single year. The inference to be deduced from this is, that it is at this moment of far more importance to find a satisfactory answer to the question, what are we to do with our ordinary criminals? than to confine the attention to that section of them usually termed convicts. On this question I find the following remarks in the 31st Report of Mr. Clay, the chaplain of the Preston House of Correction.

1065. *Chairman.*] I believe he is a very experienced chaplain?—A very experienced man; it is his 31st Report.

1066. Is he a very able and intelligent chaplain?—Very much so, and he has always been so considered; Mr. Clay says, "The real ground for apprehension and alarm about discharged criminals, is not to be looked for in the 1,500 or 1,600 convicts annually liberated from the admirable reformatory institutions at Portland, Dartmoor, &c., but from the 70,000 or 80,000 offenders of different classes and degrees who are every year turned out of prisons in which crime is encouraged by corrupting association. There are more really 'dangerous characters' discharged from such prisons in a fortnight, than could be found among all the 'ticket-of-leave' men liberated from Portland, Dartmoor, Parkhurst and Portsmouth in a year." I entirely concur in the view which Mr. Clay takes of that subject. There is one point upon which I should wish to offer another observation, which is, that the letters received from the ticket-of-leave men and others acquainted with their circumstances, afford most satisfactory testimony of good feeling and good intentions, as well as of the success of the great majority in obtaining employment. So far from the measure which was introduced by the Act of 1853 having failed, it has undoubtedly been attended with a success which none but those who have had opportunities of seeing the ameliorating influences of just and considerate treatment, combined with religious and moral instruction, could have expected. I should wish also to take this opportunity of acknowledging with gratitude the efforts of a large body of magistrates, clergymen, and others, who have benevolently co-operated with the Government in lending a helping hand to many a poor man who but for their aid would have sunk under the difficulties with which he was surrounded.

1067. Do you refer to those men who have been released?—Those who have been released.

1068. Is that with reference to their obtaining future employment?—With reference to their obtaining employment.

1069. I suppose there have been great difficulties experienced in that respect?—They have had to contend against great difficulties, and that is another strong indication of the success of the measure. There was a very strong prejudice against them; almost the whole of the press took up the question. One of the metropolitan police magistrates and some others never lost an opportunity of denouncing them. The result was very materially to increase the difficulties which these men had to contend against, and but for the assistance which they received, they would have been overwhelmed by them.

1070. You say that very great assistance has been kindly rendered?—Very great assistance.

1071. Has that been the case throughout the country, so far as your observation has gone?—Throughout the whole country. There are very few exceptions where gentlemen have been applied to by the chaplains of the different prisons, that they have not responded to the application, and lent them a helping hand.

1072. Will you describe shortly the system of releasing a prisoner?—The steps taken in releasing a man are as follows: each prisoner during the long term of his confinement has had a certain gratuity awarded to him for his industry; the amounts of these gratuities have been explained by other witnesses; but the result is, that after three or four years' confinement they accumulate

mulate on an average, perhaps, 6*l.* or 7*l.*, which is paid in two or three instalments. In addition to this, the governor delivers to each man on his discharge a certificate, which I now hand in.

1073. Will you read it?—This certificate is filled in, "Certificate for well-conducted men discharged on license. A. B.; born at Islington; age 25; period passed; in separate or other confinement 10 months; on public works three years and two months; original trade or occupation, tailor; present trade, carpenter. These are to certify that his conduct under penal discipline has been as follows: on public works, good; in other confinement, very good. Given without erasure. Date, 1st May 1856. (Signed) W. C., governor of Portland Prison."

1074. That same form, *mutatis mutandis*, is given to each person?—Yes, if he has conducted himself well.

1075. Mr. *Adderley.*] Is that a certificate given merely on discharge with license, or on final discharge?—On pardon, as well as on license; it is given in both cases; a certificate of character is a useful thing for a man to have by him.

1076. *Chairman.*] Something has been said about the influence which the chaplains are supposed to use with regard to the determination of the period when a convict shall be recommended for license; is there any observation which you wish to make upon that point?—There exists an erroneous impression that the chaplains have been required in all cases to satisfy themselves that a convict is a reformed man before he is recommended to the Secretary of State for a license. A little reflection will show that such a condition would be both impracticable and unjust; impracticable, because no sufficient means exist of forming an accurate opinion of the religious state of any one, much less of a prisoner; and unjust, because a prisoner should not be deprived of any privilege he might gain on an opinion unsupported by evidence. In carrying out a system of discipline in which encouragement of good conduct is held out, insuperable difficulties would arise, if persevering efforts on the part of the convict to attain a certain object were acknowledged by the governor, and neutralised by the opinion of the chaplain. Such an opinion would be valuable; but there is little doubt that the ministerial usefulness of a chaplain would be greatly impaired if much weight were assigned to it in the distribution of rewards. It would besides be open to the objection of holding out a bonus to hypocrisy, which under present circumstances is not one of the sins of prisoners.

1077. You have intimated an opinion that the general results of the Act of 1853 have been beneficial?—I think very much so.

1078. Is that an opinion which has been gaining strength during the experience which we have had of the system, or did you entertain it more strongly at one time than you do now?—I entertained a very confident expectation of it at the commencement of the system, and I do not think that that opinion has been at all set aside by the result, but is confirmed.

1079. Do you entertain it now as strongly as you have done at any other time?—Quite as strongly.

1080. Has there been in your judgment time enough since the passing of that Act to enable us to form a very decided opinion as to the tendency and effects of the Act?—We have upwards of 5,000 cases to judge by, and nearly two years' and six months' experience of the operation of it, and as it only reaches at present something like 8 per cent. on the whole, I think there are sufficient grounds for forming a favourable opinion of it. I feel assured that at the commencement many of those with whom I communicated on the subject would have gladly compromised for 20 or 30 per cent. of recommittals. In the first year it was expected that almost every man would fail under the trial of a license in this country.

1081. In your opinion, will the successive stages of discipline now established afford a sufficient inducement to encourage the men to industry and good conduct?—I much doubt it, because obtaining release at an earlier period is by far the greatest inducement that could be offered to the men, and in that opinion I am supported by those who have the more immediate charge of the prisoners.

1082. You concur then with Captain Whitty upon this subject?—I refer to Captain Whitty, and also to the governors of the prisons and the chaplains.

1083. You heard Captain Whitty's evidence upon that point?—Yes.

1084. Is that your opinion also?—That is quite my opinion; if the penal servitude is to be carried out during the whole period of the sentence, I cannot hope

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

hope ever again to see the high standard of moral discipline maintained which has been established at Portland.

1085. Why?—Because there is not sufficient encouragement to induce the men to conduct themselves in the way in which they hitherto have done. If you will permit me, I will mention to you the state of discipline at Portland previously to the commencement of this system. An opinion on several points, having an important bearing on the effects of the discipline, may be formed by reference to the small number of punishments for prison offences, and the evidence of cheerful industry afforded by the large quantity and varied nature of the work undertaken and executed by prisoners. In the year 1853 the average daily number of prisoners being 1,041 under strict discipline, there was only one punishment daily to 750 prisoners; in the following year the average number of reports against prisoners was only one to 852 daily on an average number of 1,477 prisoners. It may further be stated, that out of a total prison population of 1,977 during the year 1853, the number of offenders against the rules was only 521, and that 1,426 convicts passed the whole year under that strict discipline without a single report for misconduct being recorded against them.

1086. Mr. *Adderley*.] Was there no mitigation of sentence under the previous system at Portland before 1853?—Yes; they were then under the old system; and I may further remark, that it shows the state of discipline to which that prison had been brought by Captain Whitty and those who had succeeded him at Portland, when I say that, during one of those years, the men were under the most painful suspense as to their future destination; the report got among them that they were not to be transported, but they were not at all aware of the time that they would be required to serve; and, notwithstanding that, they had such confidence in their officers, and that the Government would keep faith with them, that they continued to behave in a most exemplary manner.

1087. *Chairman*.] What is the distinct inference which you wish the Committee to draw from those facts?—That if the men have not the inducement of a remission held out, they will not struggle so hard to gain smaller privileges by industry and good conduct.

1088. You say that those were the results under the system as it existed, and that, in your judgment, the present system, which does not hold out the same motive for hope, will not be attended with equally favourable results?—I should fear not. An instance of that occurred during the last year; about the period when men under sentence of seven years' transportation would have embarked for the colonies (which was two years from the date of conviction), those men who were under sentence of penal servitude for four years became very uneasy, and there was a serious outbreak at Portland, which was only repressed by very vigorous measures at the time. It was a satisfactory indication of what the discipline was, when I mention that those men who were under sentence of seven years' transportation, and who were to be released at the end of three years, almost without exception, stood by the officers; and I believe it was even discussed among them, whether they should not take the law into their own hands, and repress the penal service men, who were inclined to be rebellious.

1089. Is there any modification of the new system which you would suggest as the result of your experience?—I consider from what I heard when the Act of 1853 was under discussion, that it was intended the sentences to penal servitude should be deemed equivalent to the sentences to transportation; and therefore, as a general rule, the men would have no claim for the same amount of remission which had been given when the sentence was commuted from transportation into imprisonment. But it is of importance to discipline that there should be a proportionate remission of these long sentences. If in passing sentences, a maximum sentence were passed, with an understood minimum, that is to say, supposing four years were considered to be a proper term to represent seven years' transportation, that then a maximum sentence of five years should be passed, so that there might be twelvemonths which might be remitted in certain proportions as a stimulus or reward for good conduct. The same practice has long been followed with respect to sentences of seven years' or ten years' transportation; the maximum was the extent of the sentence, the minimum one-half of it, passed in a prison.

1090. Then you propose that a sentence of five years should be passed?—Yes, with the intention of carrying out a minimum of four. It would not, of course, interfere with the Queen's prerogative of pardoning at any period of the sentence;

sentence; but if such a sentence were passed, with the understanding that the practice of commuting the sentence of five years into four years, was distinctly recognised by Parliament, it would relieve the Secretary of State from responsibility, and would work well for the discipline. It would have the further good effect that the longer sentence would have a more deterring effect out of doors.

1091. But in whatever way it is to be effected, your opinion is that a change is in itself desirable, as supplying under the new system that motive of hope which existed and produced these good effects under the old?—Yes; and I do not hesitate to say that it is an essential thing, because, as these men are to be released in this country, all interests are concerned in releasing them with industrious habits and good intentions, and to a certain degree reformed.

1092. Have you made it your business to inquire into the systems adopted in other countries, in order to obtain light upon this question of releasing convicts on license?—Not to any great extent.

1093. Have you any information which you can give the Committee with regard to that question?—I can state generally, that with respect to France, I believe that there existed a power to subject certain categories of criminals to some such restrictions as our tickets of leave. They were released *provisoirement*; I believe, however, it has not been found to answer the purpose. My impression is, that it was the practice to assign a certain district to a prisoner released in this way, and to maintain a close superintendence of the police over him, very much on the same plan as that which is maintained over convicts on tickets of leave in Van Diemen's Land and Western Australia. The natural effect of this would be, in a country not accustomed to convicts, to deprive the men of the means of obtaining employment; that, of course, would render men reckless; they probably would commit some fresh crime, or endeavour to escape from the district, and the penalty of a revocation of the license and its consequences would follow.

1094. Within what kind of district do you understand that they are confined in France; a particular town or a particular department?—I should think it was a particular department within which they should live.

1095. Are they small districts?—Of that I am not aware.

1096. Is it on account of that limitation that you think the system objectionable?—I think the system of maintaining a superintendence over the men objectionable on that ground, and on the previous consideration of the subject; I always strongly objected to maintaining any close supervision over our men when they were released, feeling that it would very much affect their prospect of obtaining their livelihood.

1097. You are against limiting the district?—Certainly; I think it a great object to disperse the men as much as possible, and to let them be absorbed in the labour market of the country, wherever they may be.

1098. Then, would you generally make it a license for the whole of the United Kingdom and the Channel Islands?—I think so.

1099. The words of the 9th section of the Act of Parliament are, "a license to be at large in the United Kingdom and the Channel Islands, or in such part thereof respectively as in such license shall be expressed;" do you think it better, as a general rule, to make it a license for the whole of the United Kingdom and the Channel Islands?—The only exception which has ever occurred to me as offering an advantage would be, to prevent the pickpockets and others from large returning to large towns, and, to a certain extent, that has been practically acted upon; for instance, a few of the London pickpockets have been excluded from the counties of Middlesex, Kent, and Surrey.

1100. In how many cases should you say?—Very few.

1101. Have you any notion about how many?—I should think not 40, altogether.

1102. Mr. *Wickham.*] If you were to exclude them from London, they would go to Manchester or Liverpool, would they not?—Yes; I rather think that the Secretary of State has determined that he will not have any further restrictions. I have so understood.

1103. *Chairman.*] You do not advise any further restrictions?—I do not think there should be any further restriction, excepting that to which I have alluded; but that is open to the objection which has just been urged, that it drives the man to some other place; therefore I do not think it would be well to act upon it as a general rule; and probably the best way of dealing with the whole class would

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

would be to let them be at large in the terms of the Act, within the United Kingdom or the Channel Islands.

1104. Would you go beyond that; it has been suggested here, that it would be expedient to modify the Act to such an extent as to have a license to go beyond those limits of the United Kingdom and the Channel Islands?—I think it would be very fair to let them go to any of our colonies; at present, the restriction upon them is very inconvenient. Many of them have the means of emigrating to Canada, or to Australia, but they would not be safe under the license within the terms of the Act.

1105. Would you suggest a modification of the Act of Parliament in this respect?—I should. I think it would be of advantage to include our own colonies; to give a licence to be at large within our own colonies, or in Great Britain. There could not be any objection to that, that I am aware of.

1106. It involves questions of policy, I suppose?—Entirely so, and I have no doubt the limitation was introduced with that view.

1107. Is there any other light from foreign countries that you have obtained, which you can give the Committee?—Upon that point I have nothing further to state.

1108. In your opinion is it desirable to maintain a more effective surveillance of the men released on license?—I think not, for the reasons which I have already stated.

1109. Have you formed an opinion as to whether it is expedient that steps should be taken for the establishment of a new penal colony?—Mr. Elliott has spoken before the Committee upon that subject with so much more authority than I could speak, that I should wish to refer the Committee to his opinion. I would merely state that I entirely concur in what he says as to the difficulties to be apprehended from any attempt to found a new penal colony; the difficulties are not so much in establishing a colony, and in employing the men there, but in absorbing the labour afterwards. No difficulty arises till the period of the release of a convict; then comes the question of whether he can find employment, and whether he becomes a good member of society, or a pauper, or is likely to cause fresh expense and trouble.

1110. You mentioned one change in the law which you would suggest, namely, an alteration of the 9th section of the Act of Parliament, as to the limits within which the Secretary of State should be empowered to grant a license; is there any other alteration of the existing law which you would suggest as advisable?—I have no other change to suggest; the Act of 1853 substitutes penal servitude for transportation, and defines the terms of each; the practice of the courts might differ; for example, it would be quite competent for any judge to pass solely sentences of penal servitude, the terms of which correspond with the periods of transportation, and are prescribed in the Act; therefore I do not know that any change in the law would be required on those grounds, even if it were determined to suspend sentences of transportation, and substitute those of penal servitude.

1111. What is the change in the practice which you would advise?—That would depend upon the decision of the Government with respect to transportation; if difficulties occurred in carrying out transportation, or if it were found objectionable on other grounds, it would be competent to pass sentences of penal servitude instead, to be carried out in Great Britain, Gibraltar, Bermuda, or Western Australia.

1112. Have not the judges now the power, with regard to terms of 14 years, or upwards, to give an alternative sentence of transportation or penal servitude?—Yes, they are all defined in the Act.

1113. Under 14 years there is no power of passing sentence of tranportation?—There is not; but the periods of penal servitude corresponding to the original terms of transportation are laid down in the Act; six years' penal servitude represent 14 years' transportation, and so on.

1114. Then your suggestion is, that with regard to those cases where there is still an alternative, the judge should pronounce a sentence of penal servitude, and not pronounce a sentence of transportation?—It is a question of policy, but would not require any change in the Act.

1115. You mean that he has power under the Act to do that now?—Yes.

1116. Mr. *Massey.*] Is it your opinion, that prisoners sentenced to penal servitude should, with regard to the remission of their sentences and the mode of

of treatment in different prisons, be placed precisely on the same footing as prisoners under sentence of transportation; does your evidence go to that extent; you are of opinion, that withdrawing from a prisoner under sentence of penal servitude the motive of hope is injurious?—Yes.

1117. Suppose you placed a man sentenced to four years' penal servitude on the same footing as a prisoner sentenced to seven years' transportation, that is, with a view to having a license at a certain period of his sentence, do you think that that would be desirable; that would place him precisely on the same footing as a prisoner under sentence of transportation?—There are certain periods of penal servitude in the Act which represent transportation.

1118. A man sentenced to four years' penal servitude must serve his time?—Yes.

1119. Instead of serving his time, would you allow him to have a license to go at large after a certain period of probation, as you allow a man under sentence of transportation?—That is what I think is so great an object, namely, to have that kind of sentence which will admit of a remission of a portion of it on good conduct. The evidence which I gave just now on that point was to this effect, that if a sentence of five years were passed instead of four, and if Parliament distinctly recognised the practice of the Secretary of State generally remitting one-fourth of that sentence on good conduct, the same certainty of punishment would follow, because there would be a minimum of four years, and a maximum of five; I think it would have a better effect out of doors as well as within the prison.

1120. But would not it be rather, so to speak, a fraud upon the prisoner; it would leave him precisely in the same situation as he is in now?—It would soon become generally known that a prisoner would have to serve at least four years, and might serve five.

1121. Mr. *B. Denison.*] Would it be at all necessary to have an Act of Parliament for that?—No.

1122. Has not the Secretary of State the power now of remitting any part of a penal sentence?—Yes.

1123. *Chairman.*] Having the period fixed, the Secretary of State, of course, would have the general power of remitting any portion of it?—Yes.

1124. Mr. *B. Denison.*] Was the rule that the whole period of penal servitude should be really carried out, anything more than a rule laid down by the Secretary of State himself?—It was the intention of Parliament, I believe, that the sentence of penal servitude should be carried out.

1125. Had not the Secretary of State the power of remitting any part of a sentence to penal servitude for four years?—Yes.

1126. And has yet?—And has yet.

1127. Then the rule which was issued was only a rule issued from the Secretary of State's office?—It was so.

1128. You said that you thought it would be desirable that there should be a minimum and a maximum; what would be the advantage of a minimum?—Because the certainty of punishment is always considered to have a very beneficial effect, as far as repression of crime goes; the certainty of punishment is always held to be of importance; if the minimum period were uncertain, the prisoners might speculate upon getting a very short period of confinement, instead of a long one.

1129. Have not some of the judges mentioned that they really do not know what sentences will be carried into effect?—That I do not know.

1130. *Chairman.*] Have you formed an opinion as to whether it would be advisable to introduce sentences of long imprisonment, before having recourse to a sentence of penal servitude?—I think it would be of great importance to exhaust all ordinary sentences of imprisonment before having recourse to a period of penal servitude.

1131. Will you explain your meaning?—I incidentally alluded to that point in one of my former answers, in which I showed the great number who were sentenced to transportation, and the very limited number who were sentenced to periods of imprisonment exceeding one year. The void which, I think, requires filling up, is the period between one year's imprisonment and four years' penal servitude; I think if more sentences of moderate periods of imprisonment were passed, it would be an advantage.

1132. Do you mean by "moderate periods," two or three years?—Perhaps not

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

not exceeding two years. As the practice formerly existed, it was virtually almost a step from six months' imprisonment to seven years' transportation; all second convictions for felony, however trifling they might be, were visited as a general rule with seven years' transportation.

1133. Do you think that more sentences of one year's imprisonment, and eighteen months', and two years', and so on, might be advantageously introduced?—I think in the administration of criminal justice there would be a more just gradation of punishment if such sentences were resorted to.

1134. Have you any information to give the Committee upon the practice adopted in America of substituting imprisonment for transportation?—In America they have no sentences of transportation, and the graver offences are visited with three, four, and five years' imprisonment. I do not myself see any great objection to the same practice being adopted here; but it is a question of very grave importance in the administration of justice, and perhaps the most important that will receive consideration from this Committee. Transportation has had for so long a period a hold on the public mind; and it has been so very convenient to get rid of criminals altogether, that it should not create surprise if the prospect of relinquishing it would meet with great opposition. So far as my own experience goes, however, I consider that transportation has in a great measure ceased to have the deterring effect which it had in former times.

1135. You are aware that one very strong argument which has been used for transportation has been, that no sentence ever possessed the same amount of terror for prisoners, and those who might be disposed to follow illegal courses?—I have never held that opinion myself; from knowing the feelings of a very large body of men, and being generally aware of the circumstances, I am under the impression that the great amount of distress which is shown in court when a sentence is passed, arises from the sverance of the ties which exist between a criminal and his wife, family, and friends. I have seen more distress and agony exhibited by the side of an emigrant ship upon friends taking leave of each other, than I ever saw or heard of in court at the passing of a sentence of transportation, and yet emigration is not stopped by all the distress that is witnessed by the public.

1136. I understand you to be of opinion that that argument is pushed too far?—I think so; most of the men at Portland at the time of the passing of the Act of 1853 were very much disappointed at the prospect of being imprisoned for a short time longer, and then released in this country, instead of having the promises of being transported fulfilled.

1137. The gold discoveries had been heard of then?—They had; but the same feeling existed before.

1138. Have you any information to give the Committee as to the comparative expense of transportation as it existed before the passing of the Act of 1853, and of the present combined system of penal servitude and transportation?—This subject was under consideration in 1851, and with your permission I will lay before the Committee some of the calculations. Assuming that an average period of three to four years' imprisonment were substituted for the then sentences of transportation, the following might be assumed as data on which to calculate the maximum number who would be accumulated, and the expense. First, as regards Great Britain: If, as an assumed maximum, we take 3,000 as the number sentenced annually (and that exceeds the number which are usually sentenced), and that an average period of four years' imprisonment were to follow, the sentences of imprisonment, extending from the shortest term of penal servitude to life, would be 12,000. Of those there might be about 2,000 in separate confinement, and 10,000 on public works and in invalid establishments. The expense of an assumed maximum of 12,000 prisoners sentenced in Great Britain, of whom one-sixth would be in separate confinement, would be as follows: the maintenance of 2,000 prisoners in separate confinement, at 24 *l.* per head, would be 48,000 *l.* The maintenance of 7,500 able-bodied on public works, at 23 *l.*, 172,500 *l.* The maintenance of 1,500 invalids, at 25 *l.*, 37,500 *l.*; and the maintenance of 1,000 juveniles, at 20 *l.*, 20,000 *l.* The gross total annual cost of 12,000 prisoners would therefore be 278,000 *l.* From this must be deducted the earnings of 12,000 prisoners, which I take at the very low figure of 12 *l.* on the average per annum. On public works those men would, most of them, earn about 20 *l.* per head, but in separate confinement they would not earn more than 7 *l.* or 8 *l.*; 10 *l.* per head at the most; therefore, the average of 12 *l.*

12 *l.* per head may be considered very low. The value of the labour would amount to 144,000 *l.* The net cost to the country, therefore, would be 134,000 *l.*; the net estimate for 1,200 females, 19,200 *l.*, and that would give a net cost for 13,200 male and female prisoners of 153,200 *l.* In the foregoing calculations it is assumed that a proportion of the prisoners would be employed on public works at Gibraltar, Bermuda, and Western Australia in the following proportions:—Gibraltar and Bermuda, 2,300; Western Australia, 550; that is, 2,850. Assuming an average period of imprisonment of three years at each of these places, there would be an annual relief of one-third of these numbers. The average expense of passage to Bermuda and Gibraltar would be about 7 *l.* 10 *s.*; this for 800 prisoners would amount to 6,000 *l.* The expense of the voyage to Western Australia for 200 prisoners, at 25 *l.*, would be 5,000 *l.* The total annual expense for transport of convicts to Gibraltar, Bermuda, and Western Australia, to be added to the maximum calculation, would be 11,000 *l.* I have an abstract of the whole number, which, including 5,250 men for Ireland, may be added, a constant number of 5,220, and an expense of 57,750 *l.* The following is an abstract of the foregoing estimates of an assumed maximum number of 17,250 prisoners sentenced in Great Britain and Ireland: the gross estimate for 12,000 prisoners in England and at Gibraltar, Bermuda, and Western Australia, is 278,000. The gross estimate for 5,250 prisoners in Ireland, is 57,750 *l.* The estimate for transport services to Bermuda, Gibraltar, and Western Australia, as before, is 11,000 *l.* The gross cost would be 346,750 *l.*; and the estimated cost for 1,200 females, 24,000 *l.*, which will bring it up to 370,750 *l.*

1139. Sir J. *Pakington.*] That is the gross cost of the new system?—Yes; deduct the earnings of 12,000 prisoners, at 12 *l.* per head, as before, 144,000 *l.*; deduct the earnings of 5,250 prisoners in Ireland, at 5 *l.* per head, 26,250 *l.*; deduct the earnings of 1,200 females, at 4 *l.* per head, 4,800 *l.*; that is, 175,050 *l.*, to be deducted from the 370,750 *l.*, leaving net 195,700 *l.* Now, the gross estimate of the expense of the system of transportation, as it stood some years ago, for 15,720 prisoners, was 587,294 *l.* The real cost to the country, after deducting the value of their labour on public works, was 419,476 *l.* I should mention, that, in estimating this as net cost of adopting imprisonment instead of transportation, I do not include any of the expenses which now are going on in the convict colonies, and which, for some few years, will still be required for public and other purposes; but I look to it, that in a few years all expenses on the ground of transportation ought to cease in those colonies when no more convicts are sent to them, and that the absolute expenses which would be incurred in penal establishments at home and at Gibraltar and Bermuda would be all that would be chargeable. The foregoing is an estimate of numbers calculated on data as they stood in 1851; namely, 3,000 to be annually sentenced to four years' service. I do not think, however, the numbers would accumulate so as to reach 17,250 in Great Britain and Ireland, under any circumstances. I am of opinion that the present establishments at home and at Gibraltar, Bermuda, and Western Australia, would accommodate all the convicts likely to be on the hands of the Government. In connexion with this point, which would be one of great importance in any change of system, I would beg leave again to submit the few observations which occur in my Third Report for 1849: "There can be no question that if it be necessary from any cause to carry into effect probationary periods of discipline in this country, and that, in consequence, a body of 10,000 or 12,000 men are to be maintained by the Government, they ought to be usefully employed; it is a confiscation of labour, in which the Crown has a vested interest. This, as a matter of finance, will not in the opinion of some be regarded as the least of the questions to be considered, and by all will be acknowledged to be of some importance. One of the objects at Portland is to show to what extent this can be done consistently with other and more paramount considerations; and when the system shall have been tested by experience, I hope, with the co-operation of the Admiralty and Ordnance authorities, to be enabled to render the labour in the dockyards and arsenals much more useful and valuable than it ever has been." The experience since gained at Portland has more than realised my expectations, both as regards the moral improvement of the men and the amount of work executed; the ascertained value of the work performed by the convicts at that prison for the first four years was as follows: in 1849, 7,214 *l.* 6 *s.* 11 *d.*; 1850, 14,067 *l.* 16 *s.* 7 *d.*; 1851, 20,541 *l.* 15 *s.* 5 *d.*; 1852, 20,568 *l.*

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

1140. Mr. *Adderley.*] To what number of prisoners?—The prisoners varied during those years.

1141. About what number?—During the last of those years there were 800; during the former years there were not so many. I can, however, extend this return. In the year 1853 there was an average of 1,040 prisoners, and the estimated value of the labour was 26,500 *l.*; in the year 1854, the average number of prisoners was 1,470, the estimated value of their labour was 40,550 *l.*; and in the year 1855 there was an average of 1,480, and the estimated value of their labour was 37,980 *l.*; which will bring the annual average to nearly 26 *l.* per head. I would take the opportunity of mentioning one circumstance which has frequently been referred to, namely, the great advantage of establishing prisons in agricultural districts, and employing the prisoners in agriculture. Now, carrying on agriculture is an excellent employment as regards the moral training of the men, but so far as profit is concerned, it is nothing to be compared to the labour at public works, such as that which is going on at Portland, or the employment in the arsenals and dockyards of Portsmouth and Woolwich; it is, however, an excellent thing to fall back upon, so far as regards the moral training. We have had some experience at Dartmoor; but so far as profit is concerned, it is not at all favourable.

1142. Sir *J. Pakington.*] It is not self-supporting?—No.

1143. You are under some difficulty as to soil, are you not?—Yes; it would be better if we could grow flax and potatoes.

1144. *Chairman.*] Have you any information to give us as to measures for assisting discharged prisoners?—Unless a prisoner has some assistance on discharge, such as that which has been extended by many benevolent persons to prisoners released on license, he is placed in the greatest possible difficulty; and I do not feel a doubt that the number of re-committals to ordinary prisons, which reach a far larger number than those of the license-holders, is due to that cause, of the men being discharged perfectly friendless into their old haunts, where they are obliged to fall back upon crime for a means of subsistence. In France and other countries this question has been brought forward by many benevolent and distinguished individuals. The Government in France have recognised its necessity, and, though no exact plan has been determined upon, it is still under consideration, and is likely to be organized upon some footing which will give material aid to prisoners on their release, and probably diminish the bad effects which follow from their having no means of subsistence and existence. It is especially necessary with respect to juvenile criminals, but the same observation will apply, in a great degree, to adults. The voluntary efforts of benevolent persons are wholly insufficient to meet the necessities of the case, and can accomplish but a very small portion of what is required. They indicate a void in our social arrangements which requires to be filled, and the great success of the existing institutions which have been formed proves their utility, and the urgent necessity for increasing the number.

1145. You mean the voluntary institutions?—Yes, voluntary institutions. If it were only on the low ground of financial expediency, the Government would do well to second and stimulate these humane efforts. Many a man, whether from having been brought to see the error of his ways, or from the dread of punishment, would gladly avoid coming again within the grasp of the law, if it were within his power to maintain himself by honest industry. Without friends or the means of employment, what are they to do? Sir William Colebrooke, late Governor of Barbados, who is a very distinguished and a very benevolent man, remarked on a recent occasion in the colony, "There is a duty which society owes to the discharged prisoner which, until of late years, may have been too much neglected in all countries. The taint of crime is not readily removed, and the difficulty of regaining a place in society, when once forfeited, has caused but too many to relapse into evil associations. Some interposition is, therefore, needed in the way of prevention,"

1146. Mr. *Adderley.*] Where do those remarks of Sir William Colebrooke appear?—I received them from him in a paper which he sent me.

1147. We have not got them in any despatch?—No.

1148. *Chairman.*] Have you any suggestions of a practical nature to lay before the Committee, with a view to supplying what you have termed this void in our system?—No precise plan occurs to me; it is too large and important a subject to be disposed of hastily; but in this country, where there

are

are so many benevolent institutions for almost every possible contingency or evil that can happen to humanity, I think if it were generally known that there did exist this great desideratum, the means would be found by private individuals of assisting prisoners on discharge. I am satisfied that it is one of the most important measures in the social system which is now required; the only practical suggestion which I could make, would be that some assistance should be given to the societies which might be formed, and certified to be working any amount of good among that class of prisoners.

1149. Assistance from public funds, you mean?—Assistance from public funds, in the same way that assistance from public funds is given for educational purposes and other objects. My own opinion is, that there would be less expense in the punishment of crime if there were more expense incurred in the prevention of it.

1150. There is a matter on which Captain O'Brien refers for information to you, with reference to the women who are leaving Brixton, and who we understand are now to go into an institution at Fulham?—The Refuge at Fulham will be devoted to one of the objects connected with the discipline of female convicts.

1151. What information can you give the Committee with regard to the proposed institution at Fulham?—The Committee being aware of the system of discipline pursued at Millbank and at Brixton, with reference to the females, I would merely observe, that whatever difficulties might arise on other points connected with them, it is obvious that those which would occur on their discharge, require the most earnest consideration. Viscount Palmerston, when Secretary of State for the Home Department, communicated to me his views upon this important question, and directed me to submit to him some plan for disposing of the females after undergoing a certain period of their confinement; I gave my best consideration to the subject, and addressed to Mr. Waddington the following letter, which will explain the views of Lord Palmerston, as I have embodied them in it.

1152. What is the date of your letter?—The 16th of December 1853. "Sir; I have to acknowledge the receipt of your letter of the 16th ultimo, acquainting me with reference to the disposal of female convicts from Brixton, that Viscount Palmerston is of opinion that it would be very desirable to place women in some intermediate condition between close imprisonment and discharge on license, and that his Lordship is not without hope that some means may be devised for the formation of some establishment under the control of the Government, in which they might, after ending their close imprisonment, be put under qualified restraint, to occupations of industry, the produce of which would partly pay for their support, while the habits, which such occupations would create, would tend to put the women in a way to earn their livelihood honestly, after being finally discharged, conveying also Lord Palmerston's request that I will endeavour to submit some scheme for carrying the suggestion into effect. In reply, I beg to state, that, having given the subject full consideration, it appeared to me that if an establishment, under the immediate control of the Government, were formed, it would necessarily be so closely identified with the prison, that it would not be calculated for securing the means of employment on discharge or disposal by emigration. I therefore sought to avoid the difficulties inseparable from a Government establishment, by submitting a proposition to the corporation of the Refuge for the Destitute, an old established and most valuable institution, which has, for many years, been pursuing a course of unobtrusive practical usefulness, and whose objects are now entirely confined to females of a class similar to those who will be discharged from Brixton; this establishment is at Dalston. With a view of ascertaining how far the corporation might be induced to entertain the question, I addressed a letter to the secretary, Mr. S. Gurney Hoare. I beg leave also to state, that at the request of the secretary, I attended a meeting of the corporation of the Refuge, and from what passed during the discussion, I have reason to hope that an arrangement may be made which bids fair to be a satisfactory solution of some of the difficulties which will attend the disposal of women removed on license from prison. There will, however, be many women who, though they might not be able to withstand the temptations of London and other large towns, would do well if placed under more favourable circumstances for entering on a new course of life. In any general arrangements, therefore, with respect to the disposal of females, I would again earnestly impress the importance of sending a proportion (if

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

it were only 150 to 200 in the course of the year) to Western Australia." Although the principle of this mode of disposing of female prisoners was approved by the Secretary of State and the Lords of the Treasury, some difficulties, chiefly of a financial nature, occurred in the discussion of it, and the contract with the Refuge for the Destitute was therefore given up, much to my regret. The possibility of forming a Government establishment of a less penal character than an ordinary prison, with a view to facilitate the women being eventually disposed of to their own advantage and that of the public, therefore, came under consideration. After much discussion of the subject, and extended inquiries, some premises, situated on the King's-road, at the entrance of the town of Fulham, known by the name of Burlington House, were purchased on advantageous terms. The original buildings are undergoing alterations, and will shortly be ready for the reception of 40 to 50 of the most exemplary of the prisoners from Brixton. A chapel and accommodation for about 150 additional females will be completed in the course of the summer, and during the present year the establishment will, I trust, be in working order. It will, however, I fear, be vain to expect the same good results that might have been anticipated from the Refuge for the Destitute. I refer particularly in this remark, to the loss of all chance of disposing of them at once by emigration. Of course, it is impossible that the Government could interfere in any scheme of emigration as applied to persons of that class.

1153. And that was one feature of the system at Dalston, was it?—There would have been no objection to the corporation of the Refuge, after having them in their establishment for six or twelve months, sending them out as emigrants in the way they do their own women; but that difficulty having arisen, it must be submitted to; the first prisoners will be removed to the Refuge at Fulham to-morrow.

1154. How many?—We shall get 20 to-morrow, and an additional 30 shortly afterwards.

1155. How long have those women been at Brixton?—Most of them have been about three years under discipline.

1156. Have you selected them according to the goodness of their behaviour?—They have been selected according to their character, behaviour, and term of sentence unexpired. I was anxious not to receive anybody into the Refuge at Fulham who had more than 12 months to serve. I would ask permission to submit to the Committee the opinions of Mrs. Martin and Mr. Moran upon the Fulham Refuge. Mrs. Martin, the superintendent of Brixton prison, in her report for 1855, thus expresses her opinion of the discipline now in course of being established: "I cannot conclude my report without expressing my deep thankfulness at the encouraging prospect held out to our prisoners in the three stages of discipline recently established, especially in the last stage, the removal of the most improved convicts to Fulham Refuge. It is, indeed, a most important step, fraught with benevolence to the prisoner, and good to the community. Improvement may be strongly indicated in the first and second stages, but it is in the third alone that we shall be able to test its reality, and send them forth with a reasonable expectation that they are permanently reformed." Mr. Moran, the excellent chaplain of that institution, in his report of the same year, also alludes to the recent changes; he states, "The formation of a Government establishment at Fulham will, I have reason to hope, be attended with very happy results. Begun and carried on as it has been in the spirit of true Christian philanthropy, I have no doubt of its ultimate success. I am thankful that the views to which I ventured to give expression last year on both the above arrangements, proved to be in accordance with your own. The prisoners seem very grateful for the efforts made for their improvement, and appear anxious, as a body, to give a proof of their gratitude by orderly and submissive conduct, and I trust they are resolved to try and earn their bread by honest industry for the time to come." It is not only satisfactory, but it furnishes substantial ground for anticipating a favourable result to find that officers so deeply interested in the welfare of the prisoners look forward to their labours being crowned with success. I do hope that a measure of success will attend it; but our difficulties will commence on the discharge of the women from prison, and those difficulties chiefly arise from the accommodation into which they can be received in refuges and other benevolent institutions being so very limited. The Elizabeth Fry Refuge is an excellent place;

place; the Refuge at Dalston, in which Mr. Gurney Hoare takes a great interest, is another. There is another at Manor Hill, Brompton, under Miss Neave.

1157. Has the number of such refuges been increasing or otherwise?—I think so; I think there is a tendency towards establishing similar institutions and reformatories all over the country, and a most important movement it is.

1158. All those institutions of course being supported by voluntary contributions?—By voluntary contributions.

1159. You mentioned to the Committee one or two points in which you thought that the Act of 16 & 17 Vict. was capable of amendment; is there any other particular besides those which you have already specified, in which you think it desirable that that Act should be altered?—I think not. The provisions being full as regards leaving it to the discretion of the judge to sentence a man to a certain period of penal servitude or to transportation, there is sufficient provision in the Act to allow of any alteration in the practice which might be expedient.

1160. You say that you think a different practice might be adopted under the Act, but that the Act itself is large enough in that respect?—Yes; the only enlargement that occurs to me would be to render the license available in the colonies.

1161. Having expressed your opinion with regard to the Act, is there any further suggestion which you would make for an improvement in the mode of carrying out that Act?—There is none that I can suggest, excepting it were recognised by the Government to act more entirely upon sentences of penal servitude, instead of those for transportation; and that would be limited by the means of disposing of men under sentence of transportation, as well as by the question of whether transportation is or is not a deterring punishment. There is this anomaly now to deal with, that the heavier sentence of transportation is, I believe, much less regarded by the convicts than the sentence of six years' penal servitude which represents it.

1162. What do you suggest about that?—I have no suggestion to make but what I have just mentioned. It would be a matter of policy whether transportation should be continued on the existing plan.

1163. Is there any other suggestion with which you can favour us?—None that I am aware of.

1164. Sir *J. Pakington.*] With respect to the establishment at Fulham, you seem to speak of it as a refuge, rather than as a prison?—It was an object as far as possible to divest it of a prison character, excepting as regards the safe custody of the women.

1165. Then I presume you mean to send to that refuge only the best conducted women?—Only the best conducted women.

1166. How would you deal with the other portion of the women, namely, those who are not the best conducted, during the last period of their sentence?—They are subjected to the classification which has been explained by Captain O'Brien, and which is laid down in the rules. We begin by the severest discipline which the Secretary of State thinks should be enforced upon female convicts; that is to say, they are put at first to picking oakum, instead of being allowed to work, and they are not allowed to wash or to cook; but progressive changes go on from the first. They go through the lower stage at Millbank in four months; they then go into an upper class, where the privilege of work, instead of picking oakum is afforded; they then get to Brixton, where there are three classes established, each with progressive stages of amelioration.

1167. I presume that in the case of the class of women to whom I refer, they would in fact be detained at Brixton till the end of their sentence?—Yes, just the same as those at Fulham, only that those from Fulham might be more confidently recommended for private service, or for other openings, than those who had been kept at Brixton, and who had not conducted themselves so well.

1168. And if the system of tickets-of-leave is at all adopted with regard to women, they will be given to those at Fulham?—I should think so.

1169. Are you favourably disposed to giving tickets-of-leave to women, if well conducted?—I think it would be a wholesome restriction; I found that several of the authorities in France, whom I consulted on the subject, were much disposed to approve of that mode of carrying out a sentence; that is, by granting a remission.

1170. You have stated, I think, that the establishment at Fulham will accommodate about 180 women at one time?—Yes.

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

1171. And also that the intention is to detain them there about a year?—Yes.

1172. Do you think that that establishment at Fulham for 180 prisoners will be sufficient to accommodate all the women who, by good conduct, would be entitled to go there?—I was anxious to make it a matter of experiment in the first instance, and not to create a greater amount of accommodation than we were likely to require; but there exist the means of increasing the establishment to the extent of doubling it if necessary.

1173. How soon will that establishment be in full operation?—It will not be in full operation, I think, till the autumn; but it will commence to-morrow.

1174. You will send women there to-morrow?—Yes.

1175. Mr. *M. Milnes.*] You have been lately in France?—Yes.

1176. Did you inquire into the state of secondary punishment in that country?—Not particularly; my object was to ascertain the discipline applicable to females, and what was their system of granting licenses and treating juveniles.

1177. Did you find that the question of secondary punishment was settled there, or that the difficulties of it were still felt, and that it was undecided?—I think it was somewhat undecided; there appeared to be a difficulty in France in altering the law. I do not think that, generally speaking, they were satisfied with the operation of the whole of their system, especially as regards juveniles.

1178. Mr. *S. Fitzgerald.*] At present the convict establishments abroad are only, I believe, at Gibraltar and Bermuda?—At Gibraltar and Bermuda and Western Australia; Gibraltar and Burmuda may be considered as two establishments analogous to Portland and Portsmouth.

1179. Western Australia is for the reception of transported convicts?—Yes.

1180. Has your attention been called either to the possibility or the propriety of establishing some other places as depôts for convicts similar to those at Gibraltar and Bermuda?—There are not convicts enough to furnish men for them; but I have always been of opinion that wherever useful public or national works are required, if the work is of an extent that will employ 400 or 500 men, and require five or six years for its execution, it would be worth while to put up an establishment for the purpose of executing the work.

1181. And employing upon those works the prisoners who would otherwise be detained in this country in penal servitude?—Precisely so; only that I have always regarded the public works at home as requiring all the convict labour that could possibly be devoted to them.

1182. Mr. *M. Milnes.*] Do you anticipate that the necessary public works which we are likely to have at home would be sufficient to absorb all the convict labour that could be acquired?—For many years the whole of the convict labour might be absorbed. The works necessary at Portland will occupy 1,500 or 2,000 men for 20 years. Besides the breakwater and the formation of a harbour at that point, there are the fortifications, dock-yards, roads, and the different works which are necessary to constitute a large naval station.

1183. Mr. *S. Fitzgerald.*] Would not there be a greater facility in the case of convict establishments such as you have mentioned abroad for convicts being absorbed into the population than there exists in England; say in the colonies?—That refers exclusively to transported convicts; it is of the greatest possible importance in a colony to which convicts are transported that there should exist a sufficient demand for labour to absorb them all at the expiration of their sentences; otherwise those establishments would become precisely like Gibraltar or Bermuda, from which all the convicts are obliged to be removed at the expiration of their sentences.

1184. At present the prisoners who are sent to Gibraltar and Bermuda at the expiration of their sentences are brought back here?—They are brought home, and released.

1185. If they were employed upon public works in the colonies, and, instead of being brought home, were to be set free there, would not there be a greater facility to them either to obtain employment in the colonies, or to obtain employment in foreign countries closely adjoining those colonies?—That question was moved some years ago by Lord Grey, who sent a circular to the whole of the colonies, impressing upon them the advantages which might result to them from receiving convicts with tickets-of-leave, or employing convicts generally, but without a single exception it was refused. Western Australia

came

came forward afterwards and petitioned strongly to have them. The want, I believe, arose chiefly from the very distressed state of that colony, which required some stimulus or assistance. Mr. Elliott's evidence bears upon this question.

1186. Then in the case of convicts who are kept in confinement here for a certain time, and are then sent to convict establishments abroad, such as I have referred to, you think it would be absolutely necessary to make it part of the system, that they should be brought back to England at the expiration of their sentences?—It must be so if the labour cannot be absorbed; but as regards the administration of discipline, it can be far more effectively carried out here, and the interests of this country are very much involved in its being so carried out. If convicts were neglected or demoralized by a lax system of discipline abroad, and were then turned loose here, we should have to suffer the whole of the evils of it, and to pay the expense without receiving any of the advantages arising from the profitable application of their labour.

1187. Mr. *M. Milnes.*] Do you happen to be aware whether in Canada there is any convict establishment?—There is not, that I am aware of; and no doubt the Canadians would very much resist any attempt to send convicts there.

1188. I meant whether there was any convict establishment for native Canadians?—That I do not know.

1189. Mr. *S. Fitzgerald.*] When you spoke of transportation as not being a deterring punishment, I presume you were referring rather to the effect upon the mind of the criminal himself?—Chiefly; but then through the criminal and his representations to his friends of his condition in a colony, the intelligence gradually creeps back to the criminal population in England.

1190. Are you not of opinion, that as a deterring sentence receiving its effect upon the relatives and friends of a prisoner, transportation is a more deterring punishment than the sentence of penal servitude, in which case the relatives and friends know that in a very short period the criminal will be restored to them?—A very great amount of distress no doubt occurs, and is visible to everybody who happens to be present; but from an extensive knowledge of the feelings of the men, and witnessing the disappointment which they experienced at not being sent abroad, and the public mind being familiarised now with emigration, I can state that transportation is a very different thing from what it was in times when men were sent to the other side of the world, and when emigration was scarcely known. I cannot regard transportation as a deterring or exemplary punishment.

1191. Is that rather with a view to the state of Australia?—The state of Australia is one thing; there are the gold fields; I would endeavour to explain these views to the Committee in another form. There is no question, I think, that capital punishment is deterring upon the whole population of the country. I believe that the next most deterring punishment would be imprisonment for life; such a sentence would make a very serious impression upon the whole criminal population; and there would be no difficulty whatever in carrying out imprisonment for life, nor any inhumanity in it. It could not be carried out at Newgate, nor at Coldbath Fields, or Pentonville, but it could be carried out at Dartmoor or at Portland, where a man during the whole period of confinement would probably be in better health and in better circumstances, as far as his physical wants were concerned, than he would be if he were at large; but still there would be imprisonment for life before the criminal population. It is one great defect in the sentence of transportation that the punishment is out of sight. If a sentence is carried out at the Antipodes, it is just as much removed, and the man is almost as soon forgotten as if it had been carried out upon an individual ages back; you might as well hold out *in terrorem* the sentences upon the Greeks and Romans in ages gone by. The man and his crime and sentence are soon forgotten; but imprisonment for life within reach would be a terrible realty.

1192. I apprehend from that, that you would suggest that the periods of penal servitude, instead of being less than the periods of transportation, should be the same; that if a man, in fact, under the old law would have been sentenced to transportation for 14 years, you would suggest that he should be imprisoned for 14 years?—No; the Act of 1853 provides a fair amount of imprisonment proportioned to different cases, as representing certain periods of transportation, formerly awarded; a 14 years' sentence is represented by six years' penal servitude, and so on; but there is a provision in the Act for penal servitude for life, as there is for transportation for life.

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

1193. If, instead of being sentenced to transportation for 14 years, a criminal is only sentenced to the equivalent of penal servitude, which is six years, are you not of opinion that both the criminal himself and the public generally are rather disposed to think that he has got a more lenient sentence than if the sentence had been 14 years' transportation?—No; I think that a man would choose, without hesitation, to go for 14 years abroad, because his imprisonment must necessarily be much shorter. It would not be just to carry out a period of penal servitude of six years, and then to transport the man, because the Act contemplates that a period of penal servitude for six years shall acquit him altogether; that he shall be discharged in this country at the expiration of that time; but if you were to put it to a man sentenced to 14 years, that he should be imprisoned three or four years, and then go abroad for the 14 with a ticket of leave, I feel pretty sure that he would choose the sentence of transportation in preference to that of penal servitude. Therefore, I think, as I have just stated, that the apparently heavier sentences assigned to the heavier crimes are regarded by the prisoners as the lighter of the two, and this is an anomaly in penal legislation arising from circumstances.

1194. Mr. *M. Milnes.*] Are you content with the state of discipline at Portland and other public works?—I do not think that the standard of discipline at Portland is so good at this moment as it was when there was a remission of a portion of the period of imprisonment given as a reward for good conduct; successive stages of discipline have been established, which will go far to furnish a motive; but I do not think it will be equal to what it was formerly.

1195. *Chairman.*] And you ascribe that to the cause which you have before mentioned?—I do.

1196. Mr. *M. Milnes.*] But with the discipline as it is at Portland, is the conduct of the men on the whole satisfactory?—Very, but not equal to what it was.

1197. You would not wish to establish any severer discipline?—No, certainly not.

1198. Are you able to correct offences against prison discipline easily?—We have full power to do that; but repressing ill conduct does not assist in reforming the men, which is one great point to be attended to.

1199. Have you ever made, in your own mind, any comparison of the amount of punishment necessary to procure good discipline in public works, as compared with the case of prisoners confined intramurally within four walls?—No, you can hardly form any comparison between the two, because the discipline on public works rests on the previous discipline in separate confinement; this is an essential feature in the system. A man may have conducted himself very ill in separate confinement, but he may have been subdued by the punishments, and the different motives which have been held out to him there, and thus be prepared to conduct himself well, when he comes into association on public works.

1200. Do you find that it frequently occurs that a man who has not been a well-conducted prisoner in solitary confinement is good and manageable on public works?—Very frequently.

1201. And the contrary?—No, I do not think the contrary is so much the case, but I never instituted any particular comparison to enable me to form a very distinct opinion upon that point.

1202. Is there any corporal punishment used upon public works for offences against discipline?—There is the power of inflicting corporal punishment, but it is exercised only in cases of violent insubordination, resistance to officers, and other acts of irregularity requiring an exemplary punishment; the other punishments are generally very light, and are usually limited to a few days' confinement in a cell with bread and water, or something of that kind.

1203. As an effect of bringing men together on public works, is there any operation of public opinion, as it were, which keeps men in good subordination there?—I think the public opinion of the place is in favour of good order and respectable conduct; formerly it was quite otherwise; at the time of the hulks a man dare not be known to be well conducted, excepting outwardly; there was a dogged submission. Instead of that, there is now a cheerful submission to authority, respect towards the officers, and a confidence in them, and gratitude to the Government for the considerate and just manner in which all their claims are attended to. These feelings exist under a very strict system of discipline; but

but every thing depends upon just and considerate treatment, and upon a certain degree of encouragement.

1204. Must not the effect of that be to produce a much more thorough and real reformation than you could have had under the other state of things?—I have no doubt of it. It is a much more reliable reformation than can be obtained from separate confinement alone. A man cannot be trained within four walls, when he never has an opportunity of putting any of his good resolutions into effect. Again, as regards the old system of the hulks, instead of improving the men, there is no question that it demoralized them to a very great extent. I remember perfectly, that in the first hulk which I went on board, I suggested that a much better supervision would be obtained over the men, if the whole of the divisions in which they were placed were removed. The governor said that I could not be aware of the danger of such a proceeding; that neither himself nor any of his officers would dare to venture down between decks if the men were not confined. There now exists no difficulty at any of the convict establishments; the men are assembled in very large numbers, and nothing in the nature of a combined outbreak has ever occurred, except on one or two occasions.

1205. Have you had any means of following the ticket-of-leave men beyond the mere fact of the revocation of the tickets?—To a very limited extent; a certain amount of correspondence has been maintained with the men by the chaplains and governors, and that correspondence will be appended to a report, which I hope will shortly be ready to lay before Parliament. The whole correspondence is of the most satisfactory kind.

1206. Have you yourself held any intercourse with ticket-of-leave men afterwards who have been absorbed in society?—To a very limited extent; the chief correspondence with them is by the chaplains, who are much interested in their welfare. The men generally write most gratefully to them for the care and attention which has been paid to them during their incarceration; and many of them attribute their reformation entirely to their imprisonment, and consider their sentence to have been a blessing in that respect.

1207. You said that you were against any arrangement which would collect large numbers of ticket-of-leave men together?—Yes.

1208. Would you attach much importance to something analogous to the French system of patronage, with which you are familiar, and by which certain persons undertake in certain districts to provide, so far as they can, for the labour and employment of discharged convicts?—I think it would be a measure of the greatest possible importance in facilitating the disposal and dispersion of the men. I trust before the question of secondary punishments is finally disposed of in this country, to see some organized plan by which societies of patronage will be formed in different districts, and to which societies application can be made from the convict or other prisons; it would be a most material assistance. I am, however, disposed to question the advantage of assembling them in large numbers.

1209. Would there not be a very great jealousy on the part of the labouring classes of the community against any such interference?—I should think not; a labouring man would not object to a poor fellow receiving assistance in a benevolent way from anybody. Mr. Wright, of Manchester, has occupied himself with respect to the prisoners in Salford House of Correction for many years, and has provided for a great number. I have no doubt in that way he has saved them from a continued career in crime, which probably would have ended in their transportation.

1210. With the large amount of what I may call clean labour in this country, do you not think it would be very difficult ever to be sure of having any large amount of employment to give to discharged criminals?—The number who are discharged from the convict prisons are almost like a drop in the ocean as regards the labour market, one or two to 10,000 inhabitants in a year.

1211. Mr. *B. Denison.*] You said something about reformatories a short time ago, did you not?—Yes.

1212. Are you in favour of reformatory institutions?—It is very gratifying to any one who reflects on the subject, to see the great movement which is making with respect to the establishment of reformatories; the question is, whether it is in the right direction.

1213. Have you given us all the information which you can as to the comparative expense of the original transportation system, and of the course which would

Colonel *J. Jebb.* R. E., C. B.

5 May 1856.

be adopted under the penal servitude system?—I have given a general rough estimate of it, which, I think, will bear the test of examination. The year referred to is 1851, when the subject was much discussed; but though the expense of keeping the prisoners has increased a little since that time, I think that the proceeds from labour have also increased, and would tend probably to keep its estimate to about that amount.

1214. Mr. *S. Fitzgerald.*] I see you have credited 175,050*l.* as earnings to be deducted; will you be kind enough to explain upon what principle you have calculated that amount?—I took the earnings in separate confinement at, I think, not more than 5*l.* or 6*l.* a year; those on public works, at about 12*l.* or 15*l.* a year; the earnings in Ireland at only 5*l.* a year; at Bermuda and Gibraltar, at 18*l.* a year; and striking a general average on 17,000 prisoners, I apprehend that it would be about 12*l.* a year; but I am satisfied that is under the mark.

1215. Do you set against their earnings the amount of the materials worked up, or does that not appear?—The account shown is the value of the labour bestowed upon the materials; it is only, however, in separate confinement that such employments are carried on; a fair amount of workmanship is put upon the materials.

1216. Then I understand you to say, that neither the materials nor the articles produced, at all for many part of your calculation; you look to the mere amount of manual labour?—The mere amount of manual labour. We should have to pay so much for a jacket, the material we purchase; and the difference between the cost of the raw material and the cost of a jacket, if obtained from a contractor, represents the amount of labour which is charged.

1217. Has your attention been called, at all, to the system pursued at Auburn and Sing Sing, in New York?—No, I do not know much of those prisons.

---

*Jovis, 22° die Maii,* 1856.

MEMBERS PRESENT.

| | |
|---|---|
| Mr. Baines. | Mr. Massey. |
| Sir John Pakington. | Mr. Beckett Denison. |
| Lord Naas. | Mr. Deedes. |
| Mr. Adderley. | Mr. Seymour Fitzgerald. |
| Mr. Serjeant O'Brien. | Mr. Monckton Milnes. |
| Mr. Wickham. | Mr. Ker Seymer. |
| Mr. John Wynne. | |

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

Colonel *Joshua Jebb,* R. E., C. B., called in; and further Examined.

Colonel *J. Jebb,* R. E., C. B.

22 May 1856.

1218. *Chairman.*] I BELIEVE, since the Committee met last, some further observations have occurred to you which you are desirous of submitting to them with reference to the present inquiry?—Yes; it is an inquiry of so much importance to the Committee and to the country, that I should wish to give the whole results of my own experience, as far as the Committee may consider them worth having.

1219. We should wish to have them. What is the first subject to which you would now call our attention?—Chiefly respecting the principle of transportation and the place it has exactly occupied in the secondary punishments of this country for the last five or six years, and which at this moment it does occupy. It may be regarded as having been a very convenient and a very satisfactory opening for the disposal of the men after the completion of their periods of penal servitude; and in that light it may be looked upon to fulfil the same object which patronage does for juvenile offenders, or for any other persons coming

coming out of prison. There has been this additional advantage from transportation during the time of its continuance to Van Diemen's Land, when all the convicts were sent there, that those whom it was a great object to get rid of were disposed of to the convenience of this country as well as their own advantage. tage. This convenience and advantage, I look upon it, only continued so long as it was possible to absorb the entire labour of the convicts at the expiration of their sentences. It will be in the recollection of the Committee that when the plan which was so carefully devised by Lord Derby and Sir James Graham was acted upon, that plan failed entirely from the colony not being able to absorb the labour. The consequence was, a very great accumulation of convicts; and they were not able to obtain employment, and a great demoralisation existed.

1220. Mr. *Adderley.*] You mean during the probation system?—Yes; that led to such serious evils that transportation was suspended. Then came the plan, which was very carefully devised by Lord Grey and Sir George Grey, for meeting those evils. A period of, I think, between two and three years elapsed previous to the resumption of transportation. Sir William Dennison had been appointed governor there; he brought his experience as an officer of engineers, and his great ability, to bear upon the question, and paved the way for the introduction of this new system. But this new system, I should wish to point out, was in some respects different from the former one. The probation system of Lord Stanley and Sir James Graham was almost independent of this country; it was chiefly carried out in Van Diemen's Land. The substitute that was made for this by Lord Grey and Sir George Grey was that of imprisonment in this country for certain periods proportionate to the sentence, commencing in separate confinement, and followed by employment upon public works, the transportation being the reward of good conduct; and it was looked upon in that light by the convicts. They obtained a proportionate remission of their sentences, and they looked forward to a reward of their exertions by being transported. Transportation in this form became, certainly, compulsory emigration; but as far as a deterring punishment went, I look upon it that it was altogether nugatory. There is a remarkable fact mentioned in a work by Monsieur Bérenger, Président à la Cour de Cassation in Paris, in which he states the proceedings that took place at Brest, Toulon, and Rochefort when the abolition of the Bagnes was resolved upon by the President of the French, by a decree in March 1852. Instead of following out the view of the old Chamber of Peers, which was that the existing places of confinement should be suppressed, and that prisons on shore should be substituted for them, it was resolved by the government that Cayenne should be taken as a place of transportation for a certain category of offenders. But the men who were then at Brest, Toulon, and Rochefort were not under sentence of transportation at all; they were under sentence of imprisonment (*travaux forcés.*) As the decree was not to have a retrospective effect, they were to have the choice of whether they would continue render their sentences or be sent to Cayenne. The terms of their transportation to that place were explained to the men, and in the first few hours after the registers were opened for their accepting this offer, or rejecting it, 3,000 men came forward to give in their adhesion, and to express their wish to go to Cayenne.

1221-2. Out of how many?—I believe they almost all went; the greater part of them went. Monsieur Bérenger concludes by saying that such was the prospect, that little or no difficulty occurred; so little was transportation regarded by the men in the way of repressive punishment. My object would be to place before the Committee the real position in which transportation has stood for some time, and which I think it still occupies, and is likely to occupy, owing to the difficulty of forming a penal settlement, and changing the general arrangements which have been in operation for so long a time. As a substitute for it, I should be inclined to recommend that the whole sentences of penal servitude should be carried out in this country, and at Bermuda and Gibraltar, annexing the condition of transportation with a ticket of leave to some particular period of the sentence, which would sufficiently gain for the country the removal of the man, placing him in a better position, and having the repressive effect of punishment endured at home, which I think has its advantages over removing the punishment to a greater distance, and out of sight. The present sentences of penal servitude may be considered only to extend to a period of five years, because a sentence of six to eight years' penal servitude is deemed to be, under the Act, a full equivalent to a sentence of 15 years' transportation. The

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

punishment would be more defined, and the anomaly, which I have before pointed out, of the heavier sentences being regarded as the lighter punishments, would be done away by annexing the condition of transportation to a longer period of penal servitude. I am not aware that any change in the law would be necessary, but the practice of its administration might be determined, so that all judges, chairmen of quarter sessions, and others, might have a clear knowledge of it, and thus be enabled to keep the certainty of the punishment before the public. It is frequently complained of, that there is an uncertainty in the punishment; that a sentence of transportation is passed, and that neither the judge himself who passes it, nor the prisoner who receives it, is exactly aware of the nature of the confinement that is before him; it does not convey any clear idea, as there have been so many changes. The following scale, only slightly varied from the present practice, may serve as an illustration of the remarks which I have made: assuming that sentences of seven and 10 years are already provided for by the four years' or five years' penal servitude, and commencing at the period of 15 years' transportation, which is represented by six to eight years' penal servitude in full, I should think that the following scale might work well. Instead of sentencing a man to 15 years' transportation, he might be sentenced to five years' penal servitude and 10 years' transportation. But in working the discipline, as I have already stated to the Committee, it is of very great importance to all interests concerned, that there should be sufficient inducement and encouragement to the men to create in them habits of industry and good conduct. I would say, that if a man were sentenced to five years' penal servitude, it should be on the understanding that, on good conduct, he could reduce that period to four. He then would have to serve under a ticket of leave in the colony for 10 years longer; so that a well-conducted prisoner would in reality exactly get 14 years' removal from this country, and a worse-conducted prisoner would get 15 years. It would be a more defined punishment to divide the sentence in that way. From the 14 years' sentence of transportation, which was the old sentence of transportation, I would go to 17 years; it is a new period, but it is a more equal division between the 14 and the 20; and for 17 years I would recommend that a sentence of six years' penal servitude should be passed, reducible to five by good conduct, with 12 years in a penal colony. In lieu of a 20 years' sentence, I should recommend that seven years should be the maximum sentence of penal servitude in addition to transportation, reducible to 5 ½, with the condition being annexed of being transported for 15 years. For life sentences, I should propose that the maximum sentence of penal servitude should be 10 years, reducible to eight by good conduct, but to be transported for the remainder of life. In commutation of sentences of penal servitude combined with transportation (such as would arise in the case of men who could not be sent abroad on the ground of health or other considerations), a longer period of penal servitude in place of removal to a colony would have to be determined. Commencing as before at the 15 years' sentences, which involve the period of five years' service, reducible by good conduct to four, I would submit that in such cases the practical working out of the discipline should be seven years' penal servitude, reducible to six. In cases of 17 years' transportation, there should be eight years' penal servitude, reducible to seven. In cases of 20 years' transportation, I would recommend 10 years' penal servitude, reducible to eight; and in life sentences, 12 years' penal servitude, reducible to 10. In all cases, however, of a life sentence (for they involve very serious crimes generally), they should be specially considered, as they are now, by the Secretary of State; and sentences of death commuted into imprisonment or transportation for life, I think should be served by imprisonment for the whole period of life.

Imprisonment or penal servitude for life, and in a corresponding degree, for longer periods than have ever been heard of in this country, though they might be admitted to be a more certain and more effective punishment than transportation, might probably create a feeling of sympathy for any one subjected to so apparently heavy a sentence. Such a feeling, however, would only prove that such sentences would have a more deterring effect than those of transportation. There would be no difficulty in carrying out such sentences; they could not be carried out at Milbank or Newgate, or in any of the old prisons of the country; but they could be carried out on the present combined system of the first portion of the sentence being in separate confinement, and the remainder on public works, either at Portland or at Dartmoor,

or

or some other place of that kind. I do not, therefore, think that the public sympathy would be excited against it, and I cannot but believe that that would be a more effective punishment than transportation.

Transportation, as it has been carried on for many years, has also left this country entirely dependent on the colony for carrying out the administration of the law. If we go back only as far as 1837 and 1838, there was Sir William Molesworth's Committee, in which it was condemned. In 1839, in consequence of the condemnation of the system by Sir William Molesworth's Committee, Lord John Russell, who was then at the Home Department, had under consideration a plan for substituting long sentences of imprisonment at home for transportation. That plan was never matured, but Pentonville Prison was erected with a view of ascertaining how far it could be beneficially adopted, and with the double view of ascertaining also by experiment on a large scale how far separate confinement was adapted for carrying out such a long sentence. Then came the discontinuance of transportation to New South Wales, followed by Lord Derby's and Sir James Graham's scheme of transportation to Van Diemen's Land, which only continued for about four or five years. In 1848, Lord Grey and Sir George Grey formed a plan, which worked exceedingly well, until it was stopped by the colony in 1852; and we have now commenced upon the new plan of penal servitude combined with transportation, which has reduced the number sentenced to transportation, about 3,000, to 300; I can give the numbers. The Act of 1853 has reduced the number annually sentenced to transportation in Great Britain from an average of about 3,200 in the five years previous to 1852 to an average of 315, or about one-tenth, during the years 1854 and 1855. The question may therefore be considered to be narrowed almost to a minimum.

1223. *Chairman.*] Have you any observation to make with regard to the estimate of numbers, and the expense of carrying out penal servitude; you gave some evidence to the Committee upon those subjects when you were last here; have you revised your evidence, and is there any additional observation which you now wish to bring before us upon those points?—Yes. The result of the calculations which I laid before the Committee, which I think perhaps it will be better to repeat as a contrast to what I shall now lay before them, was this. The gross cost of transportation and the convict prisons in Great Britain and Ireland in 1851, for 15,720 convicts, was 587,294 *l.* The net cost after deducting the value of the labour, was estimated at 419,476 *l.* The cost of an assumed maximum of 17,250 prisoners and 1,200 females in Great Britain and Ireland, Bermuda, and Gibraltar, with a limited number in Western Australia, assuming transportation to be given up, was 370,750 *l.* The net cost, after deducting the value of labour, was 195,700 *l.*

The calculations referred to have proved in the main to have been correct, the chief inaccuracy having been, that the number of convicts accumulating on the hands of the Government has not been so great as was anticipated, and the value of the labour on public works has exceeded the estimate; so that both those calculations are in favour of the Government. For the purpose of calculation, I will assume that an average number of 2,300 will be annually placed under such sentences as will require their being dealt with by the Government, of whom 2,000 may be males and 300 females. I do not think that that average is under the mark, because when I look back to the resolutions of the Committee of the House of Commons of 1850, there was a strong recommendation on their part that district prisons should be erected for all prisoners sentenced to periods above 12 months, and that a much more extensive use should be made of short sentences of one or two years before resorting to a term of transportation, or, as it would now apply, to four years' penal servitude. If we take, therefore, an average of four and a half years' imprisonment for the 2,000 males and 300 females, the accumulation would be 9,000 males and 1,350 females. As regards the distribution of the men, and the application of their labour, the following statement may be taken as a steady provision of work, which will not require alteration for many years, and where, generally speaking, there exists accommodation for carrying it out. Undergoing separate confinement, 1,900; at Portland, 1,500; at Chatham, 1,150; at Portsmouth, 1,050. Invalids in the "Stirling Castle," 400; and at Dartmoor, 700; at Parkhurst, 600; Gibraltar, 800; Bermuda, 600 (which is about one-half the number that will be employed there, the other half being reserved to be furnished from Ireland); Western Australia, 300; that altogether makes up the 9,000. The females would be disposed of at Milbank, Brixton,

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

Brixton, and Fulham. The number of convicts in Ireland on the 1st of January 1856 was 2,590 males and 619 females, in all 3,209; and there were sentenced during the year only 33 to transportation, and 485 to penal servitude.

1224. Sir *J. Pakington.*] Do those figures with regard to Ireland represent every person convicted before a court?—Sentenced, I presume, to transportation and penal servitude.

1225. Does that number of convicts refer only to persons sentenced either to transportation or to penal servitude, or does it embrace all the convicts in Ireland?—As I understand it (I take it from the Report of the Directors of Prisons in Ireland), it refers only to those under sentence of transportation and penal servitude. The sentences in Ireland have fluctuated so much, that it is difficult to assume data which can be relied upon for the future; but considering the greatly improved condition of the country, the far greater demand for labour, and the increased wages that are now obtained, it may be inferred that the number is not likely henceforth to average more than about 450 males and 125 females. Assuming four years as the average confinement for them, the total accumulation, when the system is fully at work, may reach 1,800 males and 300 females. For this number there exists ample accommodation in Ireland alone, without reckoning the 600 reserved places at Bermuda.

1226. *Chairman.*] I believe at our last meeting you gave an estimate of the expense of carrying out the system?—That was an estimate of the expense applicable to the numbers in 1852.

1227. Have you now the means of laying before the Committee an estimate of the expense of the numbers since 1852?—In compliance with the wish expressed by the honourable Member for the West Riding, I have looked to the numbers that we may have to deal with under the altered circumstances, and to the difference of expense in several points; and the estimates which I am now going to lay before you are those for 1856.

1228. Mr. *Adderley.*] Your answer to question No. 1138 is the answer to which your present statement refers?—Yes. The estimated expense of carrying into effect penal servitude at home, and at Gibraltar, Bermuda, and Western Australia, would be as follows:

| | | £. | £. |
|---|---|---|---|
| Great Britain | 7,300 males, at 23 each | | 167,900 |
| Ditto | 1,350 females, at 20 „ | | 27,000 |
| Ireland | 1,200 males, at 20 „ | | 24,000 |
| Ditto | 500 females, at 18 „ | | 9,000 |
| Bermuda | 1,200 males, at 35 „ | | 42,000 |
| Gibraltar | 800 „ at 32 „ | | 25,600 |
| Western Australia | 300 „ at 40 „ | | 12,000 |
| | | | £. 307,500 |
| | Cost of transport | | 13,000 |
| | Gross cost | | £. 320,500 |
| | Deduct value of labour | | 165,500 |
| | Net cost | | £. 155,000 |

1229. Lord *Naas.*] Are the cost of building and the purchase of land included in that?—No, all the establishments are complete; we have got sufficient accommodation to carry out the whole.

1230. Does this sum merely refer to maintenance and supervision?—It refers to maintenance and supervision alone.

1231. Mr. *Adderley.*] You are comparing the annual expense of the two systems?—I am giving the annual expense of a system in full operation.

1232. Lord *Naas.*] Are the annual repairs of the buildings included in that estimate?—No, merely the maintenance and supervision; what are usually introduced into the estimates before Parliament.

1233. Mr. *Deedes.*] Would there be much to add in the way of repair?—No, very trifling.

1234. Lord *Naas.*] Can you show the amount of money which has been spent upon the purchase of land and buildings since 1852?—I think 200,000 *l.* was the estimated amount that would be required to obtain sufficient accommodation for carrying out the imprisonment in 1852; but the whole of that has not been asked for yet.

1235. Is Ireland included in that?—No.

1236. *Chairman.*]

1236. *Chairman.*] When you were here the other day, you expressed an opinion that sentences of long terms of imprisonment might be had recourse to much more frequently than they are now, with advantage?—Yes.

1237. Is there any authority upon that subject to which you are desirous of referring the Committee?—The only reference which I would wish to make would be to the Resolutions of the Committee of 1850.

1238. Have you the Resolutions themselves with you?—I have the one which bears upon the point.

1239. Will you read it?—The 17th Resolution was, "That if this plan" (referring to the erection of district prisons) "were adopted, an alteration of the law might, in the opinion of this Committee, be usefully made, in order to substitute, in many cases, for short terms of transportation, longer terms of imprisonment than are now sanctioned by law." No practical steps were taken by the Government at the time for carrying this Resolution into effect; but it clearly was contemplated at the time; and I think it would go far to relieve the Government from many of the convicted criminals who now come upon their hands.

1240. Is there any other point upon which you wish to add to the evidence given by you on the former occasion?—No.

1241. Sir *J. Pakington.*] It has been stated to this Committee that badges are given for satisfactory conduct for six months in separate confinement?—Yes.

1242. And also that when prisoners are removed to public works they are placed in a first, second, or third class, according to their conduct when in separate confinement?—Yes.

1243. Is not there considerable practical difficulty in forming an accurate estimate of what the conduct of a prisoner in separate confinement really is?—It is a negative evidence; it is the absence of reports generally.

1244. Are not the circumstances of separate confinement such as to afford very little latitude for good or bad conduct?—Certainly.

1245. Is it not quite possible that the estimate formed of a prisoner's good conduct, when in separate confinement, may, from those circumstances, be a very fallacious estimate?—I do not think, generally speaking, that it is fallacious; so many officers, the governor, the chaplain, the warders, and the trades' instructors are in constant communication with the men, so that they form, as a whole, a very fair opinion of the men.

1246. With regard to the conduct of prisoners on public works, I suppose there is much greater facility?—Much greater, because they have different temptations before them, and it is by seeing how they conduct themselves under these different temptations to bad conduct or irregularity, that a judgment may be formed of the strength of their resolutions, or their forbearance.

1247. What temptations do you refer to?—The temptations of communicating improperly with their fellow prisoners, or of violent conduct of various kinds, combinations among prisoners, and irregularities which, when a man is within four walls of a cell, he has no opportunity or inducement to commit.

1248. Do you think that the circumstances of public works are such that those who have the superintendence of prisoners are really enabled to form an accurate estimate of what their conduct is?—I think they have a very good opportunity of doing so; much better than they have in separate confinement.

1249. In several of your answers, in your examination in chief, you referred to the very important experiment of tickets of leave in England, and I understood you to state distinctly that, notwithstanding all that has been said and written out of doors, you think, on the whole, that that experiment has been a successful one?—I really think so.

1250. So far successful, that it is your desire to see it rather extended than contracted?—Pardon me; I think that that point, of continuing to give tickets of leave, is open to a question; there are many advantages connected with it in exercising a certain repressive effect, perhaps, upon the individuals; but it marks them as a class, and it is that mark as a class which has interfered with the prospects of many in obtaining employment. I think, therefore, that the balance of my judgment would be, that it would be better to set a man perfectly free, and trust to the chance of capturing him again if he committed himself, than to release him, at whatever period, either medically or on other grounds, with a ticket-of-leave. In a penal colony it would be quite different, but here we cannot maintain the superintendence of the police over them without effectually preventing their obtaining employment.



1251. How

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

1251. How is it that the men released under tickets of leave become a marked class?—They are marked by the public; they have to go to magistrates and others to get certificates signed, and they are marked by having to obtain the little balances of their gratuities, which they apply for at the post-office; a man who has settled in a country town has to go to the post-office and say, "I am a ticket-of-leave man; I have come for my balance." He is known as a ticket-of-leave man; it has become a term of reproach.

1252. Of course it would be a term of reproach where it was known; but is it not possible for a ticket-of-leave man, say A. or B., discharged from Portland on a ticket-of-leave, to go to a town with which he may be connected or may not be connected, to any town to which he chooses to betake himself, and there get into employment, without its being of necessity known that he is a ticket-of-leave man?—Scarcely; because, in the first instance, before he is released from Portland or any other prison, a reference is made to anybody in the town who he says will employ him; that is one means of publicity on his coming back; another is, that that offer of employment on the part of any one whom he refers to has to be certified to us by either a magistrate or a clergyman. Then he has to apply for the balance of his gratuity when he really is released. So that there are two or three points which it would be very difficult to conceal.

1253. Would it not be quite practicable to arrange a system under which men might be discharged with tickets of leave, but under which it should be known only to the police of the district, or possibly to the magistrates of the district, that they were ticket-of-leave men?—I think that would be a great object if the ticket-of-leave system were continued as a principle, and that it would be desirable to effect something of the sort. It might, no doubt, be practicable, by communicating confidentially with the police authorities, who might see parties who were inclined to employ those people confidentially, and who might receive and pay the money that was due to them.

1254. Am I to understand you to say, that although you consider the experiment to have been thus far successful, you are not in favour of extending it; does your answer amount to that?—I consider the experiment to have been succcessful, by the good conduct of the men and the vast proportion of them who have entered on an honest course of life. I think this will be quite apparent to the Committee, if reference is made to the large amount of correspondence which there is, and also if the circumstances which have been brought before the public in the number who have been recommitted be fairly considered.

1255. I find, in Question 1089, you were asked, "Is there any modification of the new system which you would suggest as the result of your experience?" The substance of your answer was, that you should desire to see sentences of four years' penal servitude extended to five, in order that there might be a margin of 12 months, within which remission of sentence might take place and tickets of leave be granted. I do not quite see how I am to reconcile that answer with the answer which you have just given to me?—I do not see that I referred to tickets of leave in my former answer. I recommended, as I have done from the first, the remission of a portion of the punishment as the best means of encouraging a man during the period of his confinement; but it was irrespective of that amount of remission being either on a ticket of leave or a free pardon; that question was not before me. The question of the value of a ticket of leave is now distinctly before me; and I have stated, that though I should at first have formed a more favourable opinion of continuing the system of tickets of leave than I have now, my present opinion is, that it would be better to forego that restriction.

1256. Then I am to understand that what you contemplated in your answer to Question 1089 was, that there should be a margin of 12 months, during which the mercy of the Crown should be exercised?—Exactly.

1257. And in the event of good conduct, that the prisoner should be absolutely discharged?—The question was not before me particularly as to whether he should be discharged absolutely, or with a ticket of leave; but I am inclined to think that it would be better to discharge him absolutely, in the same way that men under sentence of seven years' transportation were dealt with.

1258. I understand your opinion to be, that although you consider the ticket-of-leave system to have been successful, inasmuch as only 8 per cent. have been known again to come within the grasp of the law, still you would prefer that hereafter

hereafter all convicts serving their sentence in this country should rather be discharged at the end of a certain time absolutely, than be discharged with the check which a ticket of leave would establish?—That is my opinion.

1259. In your answer to Question 1104, and in some few other answers, you expressed a desire that there should be greater facility for men under tickets of leave to exercise a discretion whether they would go to the colonies or remain in England?—Yes.

1260. As the law now stands, assuming that a man has money, which you say in many cases they have, what is there at this moment to prevent a man going to the colonies. In one answer you used the expression that it was "not safe." Why is it "not safe" for a man to go to the colonies?—Because the licence would not protect him. The Act, as it now stands, only sanctions the issue of a licence to be in Great Britain or the Channel Islands.

1261. That I understand; but in the event of a man availing himself of the means which he obtained to go abroad, why should it follow that when he arrived in the colony anything would be known about his previous life?—He would run the chance of it; it is a great chance, but it is a chance; any one who knew him to be a convict might apprehend the man, I suppose, in the colony; and that is one difficulty which exists with respect to tickets of leave, that the Government could not very well interfere in any way to assist a man in emigrating to a colony.

1262. You mean that in the case in which a man was in possession of a ticket of leave, the Government could not aid him in going to a colony?—They could not possibly do so.

1263. In the event of any system being adopted, under which men with tickets of leave were to be aided by the Government in going abroad, do you think there would be any danger of a bad moral effect?—No, I think where a man has gone through the whole of his punishment, the aid of the Government or the aid of benevolent individuals would come in as a most necessary and advantageous adjunct to the prison discipline.

1264. I wish to ask you some questions with regard to the periods of penal servitude, which the Act has substituted for the corresponding periods of transportation. In Question 1110, you were asked by the chairman whether there was any other alteration of the existing law which you would suggest, and your answer was, that you had no change to suggest in the Act of 1853, which substituted penal servitude for transportation; I collect from that answer that you think that the periods substituted are satisfactory; is that your opinion?—Yes; excepting as regards working a combined system, where I pointed out that this anomaly existed, that as you could not carry out the full sentence of six to eight years' penal servitude, which represents 15 years' transportation, and then transport a man, it would be necessary to carry out a less term of penal servitude, and therefore that a man who was under penal servitude for only five years for a less offence, would feel himself to be more severely dealt with than a man who was under sentence of 15 years' transportation.

1265. Have you not yourself, in the answer to which I have previously referred, in stating your wish that five years should be substituted for four, suggested, at all events, one respect in which you think it desirable to change the law?—I do not think the law requires change; it would be the practice of its administration.

1266. Surely the law would require to be changed, because if you wish a convict to pass a sentence of five years instead of four, under the existing Act of Parliament it cannot be done; would not it require a change of the law?—It might require it; it is a subsequent consideration of the subject which has led me to think that that would be a possible way of avoiding the anomaly which I have pointed out.

1267. I was rather surprised to see in one of your answers a distinct statement that you thought no change of the law was necessary; does not the very change which you have suggested require a change of the law; in your answer No. 1089, you distinctly stated that five years ought, in your mind, to be substituted for four, with the view which you there specified?—Yes.

1268. Four years is the maximum period substituted for seven years?—Yes.

1269. Therefore, if you want to have five years instead of four, surely you can only arrive at it by a change of the law?—I was under the impression that it would be in the discretion of the judge to pass a sentence of five years instead of four.

Colonel *J. Jebb*, R. E., C. B.,

22 May 1856.

1270. Are you satisfied in your own judgment that a sentence of four years' penal servitude is either in truth or in its deterring effect, as regards its effect upon society, a full and fair equivalent for a sentence of seven years' transportation?—I think so. It was the practice for many years to release every man in this country who was sentenced to seven years' transportation, in 3 ½ years, if he conducted himself well in the hulks.

1271. In the first place, that was only in the event of good conduct; but even in the event of good conduct, there was only a difference of six months between that part of a sentence of seven years' transportation and the whole of the corresponding sentence of penal servitude?—Yes.

1272. Therefore, excepting six months, the whole balance of the seven years is in that case remitted, is it not?—The whole balance of the seven years' transportation is remitted. A sentence of transportation is not necessarily a sentence of imprisonment. And as a further illustration of it, I may say that in the system which worked so well in Van Diemen's Land up to the period of its discontinuance, a seven-years' man was embarked from this country after two years' imprisonment, and received his ticket of leave when he landed, perhaps in about two years and a half.

1273. But although the remainder of the seven years was, as you truly say, not a period of imprisonment, it was a period of comparative punishment, and it was a period of complete severance from all the ties of home and kindred?—It was; but if you look at it in another point of view, a man during his stay in Van Diemen's Land, if he were a well-conducted convict, was in every respect as well off, or perhaps better off than a free emigrant, because in addition to having learnt a trade and become habituated to hard work, and subject to discipline, he had a claim upon the Government either for employment or for maintenance, therefore he was so far in a better position than a free emigrant.

1274. Taking the case which you have put, of, in the one case, 3 ½ years in separate confinement and public works, and then the balance in exile, and, in the other case, four years' penal servitude, does not it come to this, that the sentence of penal servitude is very near being the sentence of transportation, the transportation omitted?—I have just mentioned that a seven-years' well-conducted man embarked from this country at the end of two years, not 3 ½.

1275. You said 3 ½ in the case of good conduct?—No, that was from the hulks; that was when he was released in this country. When transportation was combined with it he went away from this country, if he were well conducted (and I am sure that nine-tenths of them obtained that indulgence), in two years.

1276. You of course subscribe to the general feeling, that all sentences of punishment are rather looked to as the means of deterring from crime than as anything vindictive towards the individuals concerned?—Certainly.

1277. In the event of any ordinary conviction for sheep stealing, or any of those common crimes in a rural neighbourhood, which do you suppose would exercise the most deterring effect in the neighbourhood: if the friends and relations of a prisoner came home and announced that their relation had been sentenced to Portland, we will say for four years, at the end of that time to return to his friends and to his habits of life, or that that man had been sentenced to a period of seven years' transportation?—It depends very much upon the connexions that a man has. If he has a wife and family, and friends around him, I have no doubt that a sentence of seven years' transportation would exercise a more deterring effect upon those particular people than a sentence of four years' imprisonment, because they would then look to his early return among them; but for the majority of the men who have very slender ties in this country, I think that the prospect of two years' imprisonment in this country, combined with transportation to any one of the colonies afterwards, would not exercise so deterring an effect, either upon the man himself or upon his associates, as the longer period of imprisonment; and I form that opinion upon the extended experience which has been gained in all the convict prisons, where we have seen that the great boon looked forward to by all these men was the period of embarkation; they looked forward to it as the greatest boon. I never heard of the reluctance of a man to embark.

1278. Upon that, in the first place, I would ask you whether you observed that in an equal degree before the last few years, during which the gold discoveries

coveries have altered the whole complexion of Australian transportation?—Yes: I think so. Portland was open several years before the gold discoveries could have operated much upon the public mind.

1279. Secondly, I would ask you, both with regard to that and with regard to what you before said about the willingness of French convicts to go to Cayenne, whether you think in both cases that feeling, to which you refer, did not arise from a feeling of comparison; that, although going abroad under such circumstances was a severe measure of punishment, still it was better, lighter, and more endurable than the hard labour endured at home?—That was the view which, no doubt, the convicts took of it, and I look upon it that, as a deterring punishment, whatever a convict feels, is what will eventually have the greatest influence out of doors, because it is by his representations, either of his success in life or of what he suffers, that others must be guided.

1280. That does not quite meet my inquiry, whether you think the willingness arose from the sense that it was by comparison a lighter punishment, or whether you think it arose from the much stronger feeling that it was in itself a positive boon?—I can hardly answer that question.

1281. Can you tell me what proportion of transported convicts, for whatever period they might be transported, or taking the different periods for which they have been transported, have ever in fact returned to this country?—A very small portion indeed; and I have always looked upon it as rather a blot in the penal administration of this country, that a man should receive a sentence of, say, seven years' transportation, that he should be landed at the antipodes, and have no means whatever given to him of returning to his native country.

1282. Was it so?—Yes.

1283. In the event of a seven-years' convict desiring, at the end of seven years, to return to England, was no means afforded him by the Government of doing so?—I never heard of a man being assisted in any way whatever.

1284. Your answer includes, if I understand you rightly, all the periods of transportation, seven years as well as others?—Yes.

1285. Do you suppose that that fact, of a very small proportion even of the shortest transports returning to England, did not become known?—I think it is very probable that it did become known, but it became known in connexion with the men having settled themselves very comfortably in the colonies.

1286. Can you tell me in what proportion it would become known in connexion with such information as you have now mentioned?—I think that, generally speaking, the whole of the accounts which we received from Van Diemen's Land were such as would lead to the belief that the majority of the men were doing very well for themselves, and that, therefore, they had no desire to come home; that is the general impression which I have gained, without being able to go into particulars upon the point.

1287. Is it known what proportion of convicts died in the colony previous to the termination of their sentence?—I do not recollect exactly how those statistics are, but the general impression I have is, that the men were very healthy out there.

1288. Is it your opinion, that the fact being known that a very small proportion of convicts ever return to this country, it would be considered as an additional element of punishment?—I should think it would probably be connected with it. If it were understood that they wished to return, but could not, I think then a sentence of seven years would appear as if it were a sentence for life, if a man were landed and could not get away.

1289. Looking to the great object of determent, do not you think that the fact being notorious that very few men who once go abroad ever return, would have a very deterring effect both with men who were disposed to crime and with their kindred?—I think, as I have stated before, that it would depend very much upon the communications a man made. If he said that he was doing so well that he did not wish to return home, I think it would rather have a tendency to encourage others; it at least would not have a deterring effect.

1290. You do not think that the fact of a sentence of seven years, involving severance from kindred and home for that period, would of itself make it a severer sentence than a mere severance for four years within the country?—I do not think it would.

1291. You stated on a former day that you thought six years of penal servitude a full equivalent for 14 years' transportation?—I think it is.

 1292. You

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

1292. You have stated this morning that you wish to fill up what, I think, you describe as a void, between the present sentence of six years' penal servitude and the sentence of penal servitude for life; do you not think that the present scale is very defective in that respect; that there is no period of penal servitude under the Act between 10 years and life?—I think that the sentences which I have ventured to lay before the Committee would be an improvement; that is to say, a certain proportion of every sentence being passed in penal servitude, combined with transportation afterwards.

1293. You are not satisfied with the state of the law which contemplates no sentence of penal servitude between 10 years and life; is it that deficiency in the Act which you wish to supply by the scale which you have suggested?—I am not sure that it would require additional powers in the Act. I think the Secretary of State would have the power of commuting the sentence of transportation for 20 years, or whatever it might be, into some corresponding period of penal servitude.

1294. Then would you contemplate filling up that vacuum, as I may call it, between 10 years' penal servitude, and penal servitude for life by transportation? Yes, combined with penal servitude.

1295. When you suggested this morning a new scale above 10 years, that for 14 years' transportation there should be five years' penal servitude, and 10 years' transportation, did you intend that by way of a substitute for the present six or eight years' penal servitude?—No, it was more in the mode of administering the sentence. Whether it would require a fresh Act, or an alteration in the present Act, to allow the judge to express the thing, I cannot say. I hardly think it would. I think it would be quite within the power of the Secretary of State to make a regulation that every man under a sentence of 14 years' transportation, or any other period of transportation, should serve a portion of it in penal servitude, and the remainder in transportation. It is the portion of penal servitude which shall be served in connexion with transportation that I am desirous of providing for.

1296. The present law says, that instead of a sentence up to 15 years' transportation, a sentence shall be passed of six or eight years' penal servitude?—Yes.

1297. You have recommended this morning that instead of that sentence there shall be a sentence passed of five years' penal servitude, and beyond that 10 years' transportation; surely the sentence which you have this morning suggested of five years' penal servitude, followed by 10 years' transportation, is a very much severer sentence than the sentence which the Act of Parliament contemplates, is it not?—Yes, I should think it is.

1298. Do you mean that the two sentences shall be concurrently acted upon, or in what way would you propose to deal with this existing Act of Parliament, which awards a maximum of eight years' penal servitude as a substitute for 15 years' transportation?—What I propose refers only to the mode in which the sentence of transportation should be passed; I propose that the mode of administering it should be as it is at present, namely, a certain period of penal servitude, with the remainder served in transportation.

1299. Then I collect your meaning to be this, that the judge should in all cases retain the option which he now has of sentencing either to penal servitude or to transportation?—Yes.

1300. But in the event of transportation being preferred, that sentence should be carried out partly in penal servitude?—As it is at present.

1301. You said upon your former examination, in answer to Questions 1130 to 1133, that you wished to see a greater gradation of punishment as between the present periods of imprisonment and the present periods of penal servitude?—Yes.

1302. When you gave those answers (and you have adverted to the same subject this morning), what description of imprisonment did you contemplate?—Imprisonment, commencing in separate confinement in a county prison, for a certain period, and combined with hard labour, and a certain gradation of punishment in the prison; there has been so much experience gained now of the advantage of affording the means of encouragement to good conduct, that any gradation in the punishment in ordinary prisons on the same principle precisely as has been carried out in the military prisons and in the convict prisons, would, I think, be of advantage in its results, as striking at the great proportion of recommittals which exist in almost all the counties in England.

1303. The

1303. The present minimum of penal servitude is four years?—Yes.

1304. To what extent would you increase the present periods of imprisonment?—I would resort to more sentences of 12 months, 18 months, and two years.

1305. Would you go as far as three years?—No, I think not.

1306. Why should you leave the interval so long as from two years to four?—I think the county prisons would not have the means of carrying out such long sentences.

1307. Do you mean that up to two years you would confine prisoners in county prisons, subject to the system of those prisons, whatever it may be?—Not in separate confinement for the whole period. I should recommend the adoption of the same plan which has been followed in the convict prisons; that is to say, commencing the period of two years, with perhaps six or nine months' strict separate confinement, followed by a greater degree of association, with some few increased privileges, and going on by gradations until the end of the term.

1308. But a very considerable portion of the county prisons are now upon the separate system, are they not?—They have the means of carrying out the separate system, but those prisons will allow of any amount of provision in favour of association that might be deemed desirable.

1309. What objection do you see to carrying out the same principle which you have recommended in this way, namely, by shortening the present period which the law allows for penal servitude, and allowing courts to sentence prisoners to penal servitude for three or even for two years, if they saw fit?—If the discretion of the judge and the chairman of quarter sessions is fettered as regards the particular crimes for which they could pass a sentence of two years' imprisonment, instead of one of four years' penal servitude, I think the law would require alteration to facilitate that; but you, of course, are a much better judge than I can be of the amount of discretion which can be exercised by a chairman of quarter sessions.

1310. In the event of a case (and of course you must be aware that there are numbers of such cases) coming before a court, in which a period of penal detention of two or three years is considered to be the fit sentence, would it not be far better that that penal detention of two or three years should be carried out upon our public works than carried out under any system now in existence in any of our county gaols?—I think that the recommendation of the Committee of 1850 would more nearly answer that purpose than the public works; I think that mixing short-term prisoners with long-term prisoners would have a bad effect upon the discipline; I should much prefer prisons expressly appropriated, as recommended by the Committee of 1850, for all sentences, say above 12 months up to two years, and that then, commencing with the penal-servitude sentences, they should come to the Government prisons, as they do at present.

1311. In that case, would you not recommend reducing the present minimum period of penal servitude so as to contemplate sentences of three years?—I have just said, that if the discretion of the judge is fettered in those points, it would require an alteration in the law.

1312. On the other hand, do you think it would be advantageous to give courts the power of lengthening the present period of penal servitude, so as to sentence to penal servitude for a very much longer period for some offences than can now be done; say 15 years?—I am not quite prepared to give an opinion upon that point, because I have not distinctly in my recollection the classes of offences.

1313. Looking to the nature of the system upon our public works, do you see anything in that system to make it dangerous or objectionable to confine men who have committed grave offences upon those public works for a long period of years, or for life?—I see no difficulty at all in it.

1314. It has been stated to this Committee that as imprisonment proceeds, the latter years become so much more irksome than at first, that it is hardly possible to carry out extended periods; I understand from your last answer that you do not concur in that opinion?—I do not concur in that opinion, but it depends upon the amount of encouragement which you can hold out to a man during the whole extent of his confinement. A hopeless imprisonment for a very long period would doubtless break down a man, and render him reckless; he must have some particular object before him, which will support him under his confinement, and induce him to conduct himself well.

1315. In Question 1114 you were asked, "Then your suggestion is, that with regard

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

regard to those cases where there is still an alternative, the judge should pronounce a sentence of penal servitude, and not pronounce a sentence of transportation?" Your answer was, "It is a question of policy, but would not require any change in the Act." I wish to have some explanation of that answer. Am I to understand you to mean by that answer, that you would have the judge pass a senteuce of penal servitude without reference to the question whether the man is to be transported, or whether he is to be kept in England?—Many judges have passed sentences of longer periods than six years' penal servitude; and those sentences, having been passed at a time when it was optional with them to pass a sentence of transportation, show that they considered that penal servitude was the better sentence of the two. The large proportion of men who have been sentenced to penal servitude instead of transportation, I think, bears upon that point.

1316. Is it not most desirable that the sentence passed, whatever it be, should be clear and intelligible?—Yes.

1317. Therefore is it not most desirable that if transportation is intended, transportation should be pronounced?—Yes.

1318. And the same with penal servitude?—Certainly.

1319. In answer to Question 1124, you stated an opinion that it was the intention of Parliament in passing this Act, that the periods of penal servitude should be carried out?—Yes.

1320. Do you think that opinion is quite consistent with the language of the ninth clause, allowing the system of tickets of leave?—The tickets of leave were mainly to provide for the commutation of the sentences of the large number that were then on the hands of the Government.

1321. Under sentence of transportation, you mean?—Under sentence of transportation. It is not limited to them, but it was I think so intended. The fact of a licence being applicable in regard to sentences of penal servitude passed since that Act, always encouraged my hope that a certain remission of the period might be granted; but I believe, as far as I can recollect the discussion at the time, that it was the intention of those who framed the Bill and of Parliament (and probably the speeches which took place in the House of Commons and the House of Lords on the occasion would bear me out), that the penal servitude for four years should be fully carried out; that term being reckoned a fair commutation of the sentence of seven years' transportation.

1322. Your answer seems to refer rather to the intention of the Executive Government than to the intention of Parliament. The intention of Parliament can only be derived from the language used in the Act of Parliament, and you are aware that the language of the Act of Parliament is by no means restricted in the way which your answer seems to contemplate?—The Act does not restrict it; but I think that the intention was, so far as my own opinion goes, that the sentences of penal servitude were to be considered a fair commutation of the former periods of transportation.

1323. So far as the language of the Act goes, there is no reason whatever why the system of tickets of leave should not be applied to penal servitude as to transportation?—It is entirely open to that.

1324. Has any rule been laid down by the Secretary of State, restricting the Act of Parliament, in the way I now advert to; namely, by prescribing that tickets of leave should be granted to persons under sentence of transportation, but not to persons under sentence of penal servitude?—The Secretary of State has issued a rule by which convicts are made aware that sentences of penal servitude have been substituted in some cases for sentences of transportation, and that those sentences, being of much shorter duration than the sentences of transportation, are to be taken in place of them, and that the convict shall not, therefore, as a general rule, look forward to a remission; but the Secretary of State has also said that he will be prepared to take into consideration any special cases which may be brought before him.

1325. What is the date of that rule?—That rule was issued in November 1855.

1326. *Chairman.*] Was the date at which the notice referred to in Question 980 was issued, the month of November 1855?—Yes, it was; and in the interval between the passing of the Act of 1853 and the issue of that notice, the men were in a state of uncertainty as to what would happen to them.

1327. Sir

1327. Sir *J. Pakington.*] Can you tell this Committee whether, during that period (namely, from the passing of the Act in 1853 to November 1855) any intention had been announced by the Secretary of State upon that subject?—No.

1328. Did you yourself know, from the passing of the Act in 1853 till November 1855, whether the ticket-of-leave system was to be extended to penal-servitude convicts or not?—I was not aware; I was in hopes it might, in consequence of its being left open in the Act, and knowing the extreme importance of placing before prisoners that strong inducement; but I was not fully aware whether it would be done. It was under consideration for a long time.

1329. It was left open, in fact, for two years?—It was left open for nearly two years.

1330. I wish to ask you some questions with regard to the system under which we send convicts to Gibraltar and Bermuda. I think you stated the number of convicts which those two places receive?—Yes.

1331. Is that demand likely to be in both cases a permanent demand?—I should think so.

1332. Who selects the convicts that are to be sent to Gibraltar or to Bermuda?—Captain Whitty generally selects them from among the long-sentenced men who may be at Portland, Portsmouth, Woolwich, or Dartmoor.

1333. Is it done under your guidance and control?—The lists are submitted to me by Captain Whitty; we look them through together, and I then send them into the Home Office with all the papers connected with each case.

1334. Then, in fact, you, as the head of the department, are responsible for the selection?—Yes.

1335. Upon what principle is the selection made?—We select healthy convicts, capable of doing the work which is required of them, and who have the longest terms to serve, in order to avoid the expense of bringing them home again. Gibraltar and Bermuda may be looked upon precisely in the same light as Portland and Portsmouth; they are public works under the Government, to which convicts are sent.

1336. Is the cost of sending the men out there and bringing them back the only reason why you select the longer-sentenced men for going out there?—That is the only reason.

1337. What is your opinion of the comparative severity of the system in those islands, as compared with Dartmoor or Portland?—I do not think the men generally dislike it.

1338. What is your opinion of the comparative severity of the two systems?—The system of discipline is not so strict, I think, either at Bermuda or at Gibraltar, as it is at Portland. Measures are now in progress for assimilating the discipline of those two establishments closely to that of the establishments at home. Whether it is from the general knowledge which convicts have that it is a nice climate, and that they have little indulgencies or have had little indulgencies there which they do not obtain at home, I do not know; but it certainly is the fact that they do not, as a general rule, feel it to be more severe going there than remaining where they are.

1339. Do you think they prefer being selected to go there?—I do not know that they would prefer it exactly.

1340. I apprehend that there is no good reason why the system of discipline should be less severe there than it is at home?—No, excepting as regards climate; they may perhaps not be required to work so many hours. It is a most important point to bring the discipline of those places to the same system.

1341. Are you able to carry out in Bermuda and Gibraltar that gradation of classes which you effect in England?—The same is going to be introduced into the discipline; it is partially so already as regards the system of wearing badges denoting the different classes, and the little privileges which they obtain in consequence.

1342. One of those little privileges is receiving visits from friends; that would not be quite so easy, I apprehend?—There is a compensation for that; it must in some degree vary in consequence of the circumstances of the colonies; but they have had several little privileges which compensate for that.

1343. Have you ever considered whether it might be practicable, or if practicable, whether it might be desirable, to make the system in Bermuda and Gibraltar

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

Gibraltar a more severe system than in England, so as to effect a gradation in our system by that means?—I have considered it, and I think that partly with a view of saving the expense of the transport backwards and forwards, and also from the consideration that possibly it might have a more deterring aspect out of doors, it might be desirable to send the men under the longest sentences, and convicted of the heaviest crimes, to undergo their punishment in Gibraltar or Bermuda.

1344. Do you think that any good effect might be produced by devising means for rendering the work at those places decidedly more penal and severe than at home, and for enabling courts to make it a part of their sentence that penal servitude should be carried out, not at home, but in those settlements?—I think it might; I think it might strike the public mind with a degree of awe which it does not possess under the imprisonment at home.

1345. I infer from the general tenor of your evidence (I forget whether you have exactly expressed the opinion), that your opinion is unfavourable to any resumption of transportation as a general system?—I am quite unfavourable to it as a part of the punishment; I look upon it as a means of disposing of convicts chiefly, and that is the light, certainly, in which it has been regarded for some years past.

1346. But in the very events which you have contemplated this morning, regarding the longer periods of sentence, namely, awarding five, six, and eight years of penal servitude, and then the going to a colony for the remaining portion, covering a great number of years, does not the balance which remains in the shape of transportation become an element, and a very important element, in the punishment of the prisoner?—To some extent it may be so; but I think that if it were contrasted with a much longer period of imprisonment at home, the imprisonment at home would have a more deterring effect.

1347. In the sentences which you have been contemplating this morning, where do you propose that they should be carried out; I mean those sentences of long transportation which you have described?—The only opening which we have at present for transportation is Western Australia. Now whatever advantage may be supposed to result from transportation, it certainly is secured at an enormous expense. We have sent 3,500 convicts to Western Australia, and the cost up to this period has been 400,000 *l.* Those men were selected as being the best of our men; they were selected for good conduct; and I have not a doubt that 2,500 of those men would have returned, in this country, to an honest course of life. I therefore look upon it that you have paid 400,000 *l.* up to this period for getting rid of 1,000 men.

1348. Am I to infer from that answer that you would wish to put a stop to transportation to Western Australia altogether?—I only look upon it as a means of disposing of the men. Under the present agreement and understanding with Western Australia, they only want to take the best of the men; it is the worst of the men that we want to get rid of.

1349. Then, as the administration of the law now stands, your opinion seems to be, that being transported to Western Australia is a milder punishment than penal servitude at home?—Combined as it is with the shorter term of penal servitude at home, I consider it so.

1350. As it stands?—Yes.

1351. The usual contemplation with those who have to administer the law in this country is exactly the reverse, is it not?—Yes.

1352. Is it not, in your judgment, desirable that it should be, in truth, the real state of the law that transportation, so long as it is continued for the graver crimes, should be a more penal gradation of punishment between penal servitude and the capital punishment of death?—Yes, certainly.

1353. Practically, it is not?—I do not think that it is. My suggestion about the sentences was directed to that point, so that if a combined system of transportation and penal servitude were carried out it would be a more certain punishment before the public at home, if a judge, in passing a sentence of 14 years' transportation, were to say, "Now, remember you will get a period of five years penal servitude at home, and then you will go abroad for 10 more."

1354. You of course are aware of the fact that Western Australia are rather desirous to have a greater number of convicts sent out than we have hitherto

sent

sent out to them?—They have expressed a strong wish to that effect, but it arises, as Mr. Elliott has pointed out, I believe, more from a desire to have a great government expenditure there than from anything else. They have not the means of absorbing, in a healthy and legitimate manner, the labour of those convicts at the expiration of their sentence; that is my belief.

1355. Have you considered the policy, or the possibility, of establishing a new penal colony?—I have, often. As I stated, in a former answer, I agree entirely with Mr. Elliott upon the difficulty of doing so.

1356. You are adverse to any such establishment?—Quite so; I do not see how it is to be carried out without incurring all the evils which we have already submitted to.

1357. Mr. *Monckton Milnes.*] You have stated that an arrangement has been made with Western Australia by which they were only to take the best convicts?—That was the understanding.

1358. How was that understanding come to?—By their petitioning; when they first petitioned for convicts to be sent, the understanding was, that they should be the best behaved convicts.

1359. How has that been expressed; in a letter from the Colonial Office, or in what form?—I think you will find it in the transportation papers; but without knowing accurately what the terms were, it has been the understanding that the best convicts were to be selected for Western Australia.

1360. Is it within your experience that much importance is attached by prisoners who are not hardened, and who have not been several times committed, to the length of the period for which these sentences are passed?—The prisoners look very much to the period that they have to be detained; it is a subject of the greatest anxiety with all of them, both good and bad. And that leads me to form the strong opinion which I have laid before the Committee of the importance of some remission of the period as an encouragement to good conduct.

1361. For instance, in a case in which two men were sentenced, one to four, and the other to seven years, either of penal servitude or of transportation, or a combination of both, would the effect be considerably different upon the minds of those prisoners?—I should think so; but when we speak of periods of penal servitude, they are not usually combined with transportation; they are periods which they have to serve out in imprisonment.

1362. Is it not the fact, that in cases of first conviction the circumstance of the punishment itself quite supersedes all consideration of the time for which the punishment shall be endured?—It may be so; but when the prisoners come into prison, and see before them the long series of months which they have to serve, it depends very much upon the relative term of the sentence whether it presses severely or otherwise upon the men's minds; it is very difficult to form an opinion upon the point, because it affects people so very differently.

1363. But nevertheless, you are of opinion that the mental condition of prisoners who are sentenced to a short or to a longer term of punishment is considerably different, even immediately upon the conviction?—I think the prospect of a long term of imprisonment would necessarily have a more depressing influence upon a man's energies than a shorter one, and therefore render him less able to bear the punishment; and it is on that account the more necessary to support him by some stimulus of hope.

1364. Practically, do you find the demeanor of prisoners who are sentenced for a longer term, different from that of those who are sentenced to a shorter one in the period immediately afterwards?—No; I think there is nothing in their demeanor that would lead you to form an adverse judgment. If the sentence is prolonged to an unusually long period, there would require to be some little inducement in addition to what would be given to a man under a shorter sentence, and the prisoner would be looking forward to getting that.

1365. If I understand you rightly, you attach more importance to the principle of hope being preserved in the mind of a man, than to any other mental action whatever?—I think it is essential that punishment should be combined with reformation. I think you cannot work out those combined elements of a sentence without giving a man encouragement.

1366. Do you find that the feelings of hope of reformation do germinate in the mind of a man soon after his punishment begins?—I think the term of separate confinement is most valuable in commencing a long system of imprisonment; it gives time for reflection; it subdues the man, and it is almost, I may say, the basis

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

basis upon which the discipline, which is now in operation on public works, stands.

1367. Has your attention ever been drawn to the notion of a penal settlement in British North America?—No.

1368. Or in any other part of the world except in Australia?—No; I have not heard of a proposition of that sort for some years. North Australia, as you are aware, was once almost constituted into a penal colony; but it was abandoned by Lord Grey as soon as he came into office. The Falkland Islands and others have been talked of, but that is frequently done without reference to the chief difficulty which accompanies the administration of the law in respect of these long sentences. It is at the period when a man is discharged that the difficulty arises. If the men were sent to a remote island where the administration of discipline could not be superintended, where you would either have to give to the governor very extended powers which might be abused, or to diminish those powers to such an extent as that the convicts became the masters, you would not get a good result from the discipline which was administered there; but at the expiration of a certain period those men would have to come home, and the mother country would therefore have all the effects of a lax system of discipline to contend against, and all the expense of it without any of the benefits.

1369. You appear to contemplate a long continuance of the custom of transporting prisoners to Bermuda and Gibraltar; will not all the public works which are necessary in those places be soon so complete that there will afterwards be no efficient use of convicts?—It is not said so by the Admiralty and Ordnance authorities; they contemplate for a very long period requiring the assistance of convict labour in those colonies, and if we may judge from what is close under our own eyes, at Portsmouth and at Woolwich, they would take double the number of convicts which they have now, and be glad to receive them.

1370. You have spoken upon the question of increasing the severity of the treatment of the convicts in Bermuda and Gibraltar; do you think that that could be done without injury to their health in those climates: is not the present amount of severity as great as is consistent with the preservation of their health?—I do not think it would be necessary to increase the severity of the discipline; it would be the length of the period which would constitute its severity, the discipline being the same.

1371. Mr. *S. Fitzgerald.*] When you recommend a plan by which you would have first penal servitude for a considerable period, and transportation afterwards, how do you reconcile that plan with the impossibility which you state now exists of absorbing additional labour into Western Australia, which is the only place where transportation can be carried out?—I merely wish to lay before the Committee the mode in which a sentence of transportation under a combined system, where you have some sentences of penal servitude and some of transportation to deal with, might be carried out; it does not go to represent my opinion, that transportation can be advantageously continued.

1372. I understood you to recommend that in future there should be a combined plan, by which a prisoner should be sentenced, first, to a lengthened period of penal servitude, and afterwards to transportation?—That remark had reference to the means of working out the Act of 1853.

1373. In order to work out the Act of 1853 in the way in which you suggest, it would be necessary to find some place to which you could transport the criminals, and where their labour might be beneficially made use of?—Yes; that is one consideration which leads me to think that this country ought not to be dependent upon a colony for carrying out so important a point as the sentences of the law.

1374. Then am I to understand that you do not recommend such a system as that which I have referred to, by which there should be, first, a sentence of penal servitude, and afterwards a term of transportation?—If a colony can be found which is willing and able to absorb the labour of the convicts who are sent there, it would be of advantage to all classes to carry out a sentence of transportation; and then, with a view to preserve the deterring effect, a considerable period of that sentence might be carried out under penal servitude in this country, in sight of everybody, as was the case when Van Diemen's Land was open.

1375. Then your recommendation, in fact, depends upon the possibility of finding some place where transportation can be properly carried out?—Entirely so.

1376. I understood you to suggest that it should be possible for a judge to sentence a prisoner to penal servitude beyond the seas?—The sentences can now be carried out beyond the seas.

1377. I understood you to say that it would have an additional deterring effect if the sentence passed in open court was penal servitude beyond the seas?—No; penal servitude before commencing the transportation.

1378. I am not saying that the exact words which you used were "penal servitude beyond the seas," but that you recommended that it should be a sentence which the judge should have the power of passing, that the penal servitude should be worked out not in this country?—No; what I said was, that it would be desirable that a judge, in passing a sentence of 14 years' transportation, should be able to say to a prisoner, "Now, five years of this sentence will be carried out at Portland, or at Bermuda, or Gibraltar; but if you conduct yourself well, it may be remitted to four years; that is the minimum; but then you will go out to a colony beyond the seas for the remainder of the term."

1379. That is a different point altogether. I understood you to say, in answer to Sir John Pakington, that you thought it would be an additionally deterring sentence if a judge had the power of saying that the penal servitude should not be passed in this country, but abroad?—Yes; in Gibraltar or Bermuda.

1380. In what respect would that, in fact, differ from transportation, except in this, that the prisoner would have to be brought back again?—It would differ in this respect, that a man, instead of being at large with a ticket of leave, and receiving conditional pardon, in one of the remote colonies, would be imprisoned on public works at Gibraltar or Bermuda, in the same way as he would be at Portland or Portsmouth. The only difference in the aspect out of doors would be that it is beyond the seas; so far it is in a remote colony, and, as Sir John Pakington, I think, suggested, it might have a more deterring effect if the graver offences were carried out at Gibraltar or Bermuda.

1381. For what periods would you suggest that such a sentence should be passed; at present there is no sentence between 10 years' penal servitude, and penal servitude for life; would you say that it should be in the power of the judge to settle the sentences for certain offences, to pass a sentence of penal servitude beyond the seas for 10 years?—A sentence of transportation for life is now contemplated to be commuted into a sentence of 10 or 12 years' penal servitude; it may be for life; I think that a better gradation perhaps might be laid down than that in the Act; but it did not occur to me before.

1382. Then, would you have a gradation not only as regards the period for which penal servitude was allotted as a punishment, but also as to the place where that penal servitude should be passed?—It would be more a matter of the administration of discipline, I think, than for the judge. The Secretary of State has the power to carry out the penal servitude at home or at Gibraltar, or Bermuda.

1383. Sir *J. Pakington.*] You are aware that under the existing law, the sentence not uncommonly passed heretofore of 20 years' transportation is commuted for a term of not less than six, nor more than 10 years. You have suggested to-day that there should be another substitute for 20 years' transportation; namely, seven years' penal servitude, followed by 15 years' transportation?—Yes.

1384. Do you not think that the substitution which you have suggested would be much more severe than that which it stands in lieu of?—I think perhaps it would be.

1385. Mr. *Adderley.*] I presume that in the new scale which you have suggested to-day, your idea was, not that any exact number of years was absolutely essential, but the general scheme of combining penal servitude with transportation was the nature of your suggestion?—It was more to lay before the Committee the kind of scale, and the kind of objects which would require to be provided for.

1386. In fact, was not the idea of combining the two sentences in your mind, that of providing for another mode of discharge as different from that of tickets of leave?—No.

1387. I understand your evidence to be, that you advise that we should either shorten or abolish altogether what we may call provisional discharge in this country, under tickets of leave?—Yes.

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

1388. And I understand your proposal to add sentences of transportation to those of penal servitude, to provide another mode of discharge at the completion of sentences of penal servitude?—In all cases where sentences of transportation were passed, I merely proposed that they should be carried out as at present, with a slightly varied amount of penal servitude. The transportation, as at present, would be looked upon as a means of disposing of the men to their own advantage.

1389. Do you consider that the system which is now practically substituted for tickets of leave can be a permanent system; namely, the gradations of treatment under the terms of a Notice which you quoted as having lately been established in the Government prisons?—I think that the gradations which are now established do furnish some considerable motive to industry; but I very much doubt its being equal to what we shall require if we wish to attain to the same amount of moral discipline which we have hitherto had at Portland and other prisons.

1390. The gradation of privileges established by that notice was meant as a substitute for tickets of leave?—It was not meant as a substitute for the tickets of leave.

1391. As a motive for good conduct?—Yes; it is rather a motive in place of a remission of a period of the sentence.

1392. Is it your opinion that if we do retain any such remission of sentence, it should rather be upon a fixed system of periods than upon a mere vague discretion in the breast of the Secretary of State?—That, I think, would not be of much importance, if it were understood, and if it were generally acted upon. The Secretary of State has always laid down a minimum period of imprisonment; then a longer period of imprisonment depended upon the man's conduct.

1393. Then you would not object to the sentence, in fact, being perfectly elastic, by an arbitrary discretion in the breast of the Secretary of State?—I think there should always be a fixed minimum. What I explained, with a view of placing the subject before the Committee, was, that if, instead of the present sentence of four years' penal servitude, a sentence were passed of five years, with an understanding that it might be remitted by the Secretary of State to four, that would furnish a better motive to good conduct than the present gradations of punishment.

1394. You propose that the discretion of the Secretary of State should be limited to a scale of fixed periods of remission?—As far as the minimum of imprisonment went.

1395. Is it not the case that any such gradation of privileges as you have quoted being introduced by notice, must more or less have the fault of being little known by prisoners?—it is thoroughly known to all the prisoners, because each man has it in his cell in separate confinement, and it is hung all round the prisons, in those prisons where there is association.

1396. Still those who cannot read are not made acquainted with it?—It is fully explained to them; it is read, I believe, once a month to those who can read and those who cannot.

1397. Still such notices are unknown to the criminal class out of doors?—They are unknown out of doors, and perhaps for this reason, that it would be desirable to conceal as much as possible the little remissions and indulgences which accompany gradations of imprisonment, and to let it be thought out of doors to be a severe sentence when in reality it was not quite so severe as it was believed to be.

1398. But unless the terms of the remission are equally notorious with the sentence to punishment, do you not run the great risk and disadvantage of uncertainty of system?—No, the uncertainty is not much; the period of confinement is, after all, the period which both the men in prison and the men out of prison look to: but I think it would always be of advantage that, retaining the severe aspect of the punishment, it should be awarded as mildly as was consistent with the preservation of discipline and the other objects of the sentence.

1399. Is there not another disadvantage in any such system of privileges published by notice in prisons, that the system becomes very complicated?—No, it is not found so; we have no trouble.

1400. Do you not consider that the scale of treatment by Notice which you have quoted as part of the old Portland system, and the Notice which has lately been substituted for tickets of leave, are both complicated systems?—They appear so to those who have not to work them; but the prisoners thoroughly understand

understand it, and the officers who have the working of the system do so: there is very little difficulty, though it looks complicated.

1401. You stated that you thought that we had had time to judge of the system lately adopted?—Yes.

1402. But we can only judge of the system of tickets of leave from their application to a class of men who have not come under sentence since the Act passed?—I apprehend that those under sentence of penal servitude at this moment are the same classs of men as those who were formerly under the sentence of seven and ten years' transportation.

1403. Would they not come under the privilege of tickets of leave under very different circumstances from those who have been sentenced since the Act?—None have been released who have been sentenced since the Act.

1404. Can you judge of the effect of a ticket of leave upon a man sentenced under the Act, from the effect of a ticket of leave upon a man who was under sentence at the time of the passing of the Act?—Scarcely; because the remission which might possibly be made of a four years' sentence would not, probably, exceed six or nine, or at most 12 months, and there would be a short period for which such a man would be under a ticket of leave; whereas a ticket of leave in the case of a 10-years' man extends to the full period of his sentence of transportation.

1405. Am I to understand that the principle upon which commutation of sentence was carried out with reference to those 6,700 men under sentence at the time of the passing of the Act, was rather a vague and uncertain principle?—No, it was carefully considered.

1406. It rested, in the first place, I understand, upon the supposition that the prisoners under sentence felt a disappointment at the passing of the new Act?—Very great disappointment at being prevented from embarking for Van Diemen's Land.

1407. Their disappointment of transportation was one ground upon which the commutation rested, and their exemplary conduct was another?—Yes; the practice formerly was to release the seven-years' men at the expiration of half their term of sentence. These men had had before them the notices which gave them hopes that if they conducted themselves well, the seven-years' men would be embarked at the end of two years.

1408. Were not the two grounds, namely, the supposition of disappointment at the passing of the Act, and the amount of exemplary conduct of these men, somewhat vague and arbitrary as a foundation upon which to base the commutation of sentence?—I think not; the former practice was taken into consideration; and looking to the disappointment which these men had had, it was only a remission of about six months with the seven-years' men. The period in which a seven-years' man is released now, if he has conducted himself well, is three years; under the former practice it would have been 3½ years, and he would have gone away perfectly free, whereas the ticket of leave now presses upon him for the remainder of his sentence.

1409. Is it not the case that the principle of commutation then was so rough a principle, and so different from any principle upon which a ticket of leave would now be granted, that you can hardly judge from the effect of one, what would be the effect of the other?—The period that they should serve before receiving their tickets of leave was very carefully considered; it was the subject of a long correspondence between the Home Office and myself.

1410. With regard to the revocations of licence, can you state at all what proportion of revocations have been for new offences, as compared with the revocations on the ground of suspicious circumstances of life?—I think almost the whole are for new offences.

1411. Still, have a certain number of licences been revoked on the ground of suspicious circumstances?—I cannot charge my memory, but I scarcely know an instance.

1412. With regard to the large proportion of men discharged on tickets of leave, going to the two counties of Middlesex and Staffordshire, I conclude that the cause of those two counties having a larger proportion was, that they offered more facilities for employment?—No; the men generally go back to the places from which they came. I think it more accurately represents the proportion of criminals in those counties, or the proportion sentenced in those counties.

1413. In suggesting an elasticity as to the terms of detention, I conclude that you

Colonel *J. Jebb*, R. E, C. B.

22 May 1856.

you rely upon internal discipline as giving a sufficient scope for motives to good conduct?—Yes, very much.

1414. You think that that may be relied upon?—Yes, I think we have full experience to justify that opinion.

1415. Do you to any extent adopt Captain Maconochie's views of the substitution of task sentences for time sentences?—I think the plan carried out in its integrity is absolutely impracticable.

1416. To any extent?—To any extent. The motives suggested by Captain Maconochie and the objects of discipline may be the same; they are the broad motives of reward and punishment influencing human beings; but those are laid down in the Bible.

1417. Do you think that there is more scope in Government prisons for such internal discipline than in common prisons?—Much more, for this reason, that in common prisons you have to deal with very short sentences; those sentences do not afford the means or any hopes of effecting reformation, and therefore you trust to the punishment being the deterring element of the sentence, and not the length of the sentence.

1418. Owing to that difference of sentence I understood you to say that you considered the common prisoners were a class who gave more legitimate grounds of alarm to this country than the Government prisoners?—That was owing to the much larger number of them, and the much larger proportion of re-committals.

1419. Do you consider that the two classes of prisoners can be put into the same category?—No; I scarcely think it would be expedient; I do not think it is a good plan to mix short and long term prisoners together; it disturbs the discipline, and gives the means of communication between prisoners and their friends out of doors.

1420. I understood you to say that you consider that the main improvement to be looked to is in the modes of taking care of prisoners on their discharge?—I think it is of great importance that prisoners should be assisted a little on discharge. Those who are discharged from the Government prisons are, as far as we can do so, assisted, but I believe that very few of those who are discharged from ordinary prisons receive any assistance at all, and I attribute the number of recommittals in some measure to that circumstance.

1421. Would your proposals, with reference to taking care of discharged prisoners, apply to both classes of prisoners, Government and common prisons?—Certainly.

1422. I understood you to say, that any institutions for the care of discharged prisoners would be better in the hands of private individuals than in the hands of Government?—I should think so.

1423. Have you any evidence to give the Committee as to the experience of such institutions, further than what you have already stated?—The experience in Paris is extremely satisfactory, but it refers chiefly to juveniles. There is an establishment there under the immediate superintendence of Monsieur Bérenger, and the number of those who have been rescued from a course of crime by the assistance which they have received is most gratifying.

1424. Is that an institution in the hands of the Government or in the hands of private individuals?—In the hands of private individuals; but all those prisoners who are released on licence *provisoirement*, are paid for by the Government at the rate of, I think, 75 centimes a day.

1425. Do you see any reason why a similar system should not be applied to adult prisoners?—I do not see any reason at all why it should not.

1426. You made use of the expression that transportation was equally convenient in the disposal of adult prisoners as the system of *patronage* for juveniles?—Yes.

1427. Did you mean in that answer to draw any distinction, that the two classes were not equally to be dealt with by the system of *patronage*?—No; I have always advocated some assistance being given to adult prisoners as well as to juveniles. The juveniles, perhaps, are more in need of it, but it is an equally important element as an adjunct of prison discipline.

1428. Can you give us any further information as to such institutions abroad?—No.

1429. Do you know of any such institutions, either established or being established,

established, in England?—I have no precise knowledge of it; there is an institution in Westminster, well known to the public.

1430. *Chairman.*] Do you mean the one with which Mr. Nash was connected?—Yes, the one which Mr. Nash had formerly.

1431. Mr. *Adderley.*] Do you consider that such institutions, generally established throughout the kingdom for adult criminals on their discharge, would get rid of most of the difficulties as to such prisoners finding employment?—I do not think that it is desirable to assemble prisoners in the way that they are assembled at Westminster; I should rather prefer a system of assistance without assembling them, if it were possible. It may be necessary in some instances to have a place to which they can come for sleeping, but a good deal of assistance may be afforded to the men without bringing them together.

1432. The object is to get them a sort of transitional employment, in order that they may regain their character?—It is.

1433. Have you sufficiently considered the subject to give us your views as to the nature of such an institution?—I have not formed any definitive plan upon it, because I felt that it must fall upon private individuals to form these institutions. There is so much benevolence in this country, and there are so many ways in which it is applied, that when the subject comes fairly under consideration, I should hope that the question would be resolved.

1434. Private individuals disposing of such men abroad would avoid the difficulty which Government has in helping discharged prisoners to emigrate?—The Government, of course, could not assist directly in any scheme of emigration for prisoners discharged from gaol; but private individuals who took them under their care could do so, and that was one object which I contemplated in suggesting a contract with the directors of the Refuge for the Destitute, that they would be enabled to assist the female prisoners who were confided to their care to emigrate, affording an opening which the Government could not avail themselves of.

1435. You cannot state generally the comparative success of institutions of the sort in Europe taken up by Government with that of those taken up by private individuals?—No.

1436. But what I understand you to suggest is, that private individuals should contribute from their private means for the purpose, and should enable in various ways discharged prisoners to disperse themselves where employment could be found for them?—That is the simple object to which benevolent efforts might be directed with great advantage.

1437. Mr. *B. Denison.*] Is a ticket of leave at all advantageous to the public?—In no other way than as it may possibly act as a restriction upon the man.

1438. Is a ticket of leave at all detrimental to the future interests of the man?—I think it is, for the reasons I have before stated.

1439. Could a released convict conceal from his neighbourhood the fact whether he had a ticket of leave or not?—It is possible he might if he were in a large town: he could not in a country district, if it was the place of his birth.

1440. Has transportation, in your opinion, as a whole been more advantageous to a convict than confinement in prison at home?—I think so, certainly.

1441. Will you state why?—The generality of the convicts who have been transported have looked forward to their embarkation with very great hope, and the greater proportion of them have obtained employment in the colonies, and been placed in circumstances which, I should think, would be even more favourable than those of a similar class who had emigrated.

1442. As regards the mere punishment, are you of opinion that certain penal servitude at home would operate upon the convict population more effectually than a sentence partly of penal servitude and partly of transportation?—I think so, because, if we are to judge from former experience of the periods of penal servitude and imprisonment which have been annexed to a sentence of transportation, those periods have been very much shorter than the corresponding periods would be if the whole period was served out under penal servitude.

1443. As regards the mere punishment, are you of opinion that certain penal servitude at home would operate upon the convict population more effectually than a sentence partly of penal servitude and partly of transportation?—I am hardly prepared to answer that question. The criminal himself would most certainly regard a short period of penal servitude, followed by a long period of

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

transportation, as less severe than a long period of penal servitude; that is a matter of fact.

1444. Do you see any probability of a new penal colony being formed, to which convicts could be sent?—As I stated before, Mr. Elliott can speak upon that point with much more authority than I can; but I entirely concur with him in considering that it would be a very difficult thing to accomplish.

1445. Then, assuming that there is no great probability of finding a new colony, must not we provide, in the best mode we can, for dealing with convicts at home?—That has always been my view, because I have felt that in such a country as this we ought not to be dependent upon the will of a colony for carrying out the sentences of the law.

1446. Mr. *Deedes.*] Supposing there is no further vent for sending men to a penal colony than exists at present, are the establishments sufficient now for carrying out the system of penal servitude at home?—Yes. We have full accommodation at home, and at Bermuda and Gibraltar, and in Ireland, I think, for carrying out to any extent sentences of penal servitude on the numbers that we may suppose would come upon the hands of the Government. We have at this moment a prison for 1,100 at Chatham, not yet open.

1447. Lord *Naas.*] Why was it that the attempt failed which the Government appear to have made to induce the society called the Refuge for the Destitute to take some of the women?—Chiefly on considerations of a financial nature; the accommodation at the Refuge for the Destitute did not admit of their taking any great number from the Government prisons, and they would have had to build to a great extent to enable them to enter into that contract. The difficulty that arose at the Treasury was in what way this money was to be secured to the Refuge for the Destitute in the event of their laying it out. That was the first difficulty which occurred; and during the discussion which followed the Government changed, at least Sir George Grey came to the Home Office, and, I think, his view was, (and I could not but concur in it,) that there would be some difficulty, as a general rule, in remitting so many of the sentences and so large a proportion of them, and placing the custody of the females in the hands of others than the Government.

1448. Then such an attempt is not likely to be renewed?—I think not.

1449. Do you concur in the opinion expressed by Captain O'Brien, that the greater number of the women who have been released upon licences, especially the older ones, will sooner or later find their way back to the prisons?—I very much fear that the difficulties in the way of a woman retracing her steps, and finding employment when she has lost her character to the extent which she must have done in first of all being sentenced, and then in the fact of her being released from a prison, will interfere with her obtaining employment.

1450. The cessation of transportation, I suppose, throws a greater difficulty in the way of these women finding any employment after the expiration of their sentence?—No women have been sent to Western Australia at all; the whole of them are now dealt with in this country.

1451. Have you any plan which you can suggest to the Committee by which these tremendous evils which are described by Captain O'Brien with regard to the women could be averted; he says that they become servants in disreputable places; that they become servants in brothels and places where stolen goods are received; in places where there is vice and poverty, and where there is all that is immoral?—The only suggestion which I can make (and I cannot too earnestly press it) is the formation, if by any means it can be promoted, of refuges, to which these poor people can go, and the Government assist them to a certain extent.

1452. Would not a person who leaves a refuge be in a very little better position than a person who leaves your establishment at Fulham?—She would be in a much more favourable position, because, after a residence of six or eight months at the refuge, as soon as the directors of the refuge were satisfied that they could rely upon the conduct of the women, they would either assist them to emigrate or find places for them. There is another institution at Manor Hall under Miss Neave, which has been very successful in finding places for discharged prisoners.

1453. Have any been sent who have been sentenced to penal servitude or transportation?—One or two from Brixton have been sent, but I am now speaking of prisoners discharged from ordinary prisons. I have heard that they

they have so many applications upon their books for the services of women whom they can recommend, that they cannot always supply the demand.

1454. Do you think that a sufficient number of institutions of that kind are ever likely to be formed in the country to take that portion of our female convicts who have behaved well?—I think that, as regards Government prisoners, only a proportion of the women would require to be assisted in that way. Many of them are women who have families, to whom they return; others have friends who would assist them; but the remainder, who are destitute, require a helping hand before they can get employment.

1455. But you could not expect these societies to deal with any women except those who have conducted themselves well in prison?—No. I think that *patronage*, to use the French term, can hardly be extended to any who have not earned by good conduct some confidence from the persons under whom they have served; it is almost a necessary condition, I think, of the system, that some reliance may be placed upon those who are recommended.

1456. Then, under the present system a great number of those women who have not conducted themselves well in prison, would at the expiration of their sentence be returned to those courses which Captain O'Brien has described?—Yes, I should fear so. Every assistance that is practicable is given them. Mr. Moran, the chaplain, and Mrs. Martin, the superintendent, take great trouble in ascertaining the means of employment, and what degree of assistance can be given to every woman who goes away.

1457. The proportion of ill-conducted women in prison is very large, is it not?—No, I do not think it is.

1458. Nearly half?—The system of prison discipline applicable to women has hardly had a fair trial yet; it is only just brought into operation as a system.

1459. Do you not think that the objections to sending women of this description back upon society are far greater, both as regards themselves and as regards society, than exist with regard to men?—Yes; the evil, however, is less in degree, because the number of female prisoners does not exceed about one-fifth that of the males; but if transportation were continued in any form, I would earnestly contend for a proportion of females being sent; I think it should be so, not only as a matter of principle, but as a matter of convenience to the Government.

1460. Do you think that if transportation took place to a colony, the modes of employing women are more applicable to their circumstances than to those of the males?—It is a much more certain way of disposing of them than they can possibly get in this country; and so long as transportation continued to Van Diemen's Land there was very little difficulty, I believe, in those women doing well.

1461. Mr. *Deedes.*] You stated, in answer to the Noble Lord, that until lately you thought that no good system had been applied to women?—Yes.

1462. What new system do you allude to?—Up to the period of the discontinuance of transportation to Van Diemen's Land all the women were sent out there very soon after conviction; they were merely assembled at Millbank for, perhaps, two or three months, and were then embarked to Van Diemen's Land, where, after a short probation, they obtained tickets of leave; therefore on the cessation of transportation an entirely new system had to be considered; Brixton prison was purchased for the purpose of commencing it.

1463. That was the system to which you alluded?—Yes.

1464. Mr. *S. Fitzgerald.*] Will you explain how it is that you have sent no women to Western Australia; for what reason is it?—The colonists refused to receive them; I strongly advocated the importance of it at the time, and the Duke of Newcastle, who was, I think, Colonial Secretary, referred to the inhabitants of Western Australia to know whether they were willing to receive females as well as males. They refused to do it; but I believe it was because they had the hope of getting female emigrants.

1465. Mr. Serjeant *O'Brien.*] You mentioned that the reformatory institutions would be better supplied by private funds than by Government. Will you tell me why?—I did not exactly refer to the funds, but I stated that private individuals unconnected with the Government would work them better.

1466. Will you explain the grounds of that opinion?—The grounds are, that there cannot be a direct interference by the Government in the disposal of prisoners, and that the numerous little questions which arise, of who can take them,

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

and where they can be sent to, and how they can be employed, are much more favourably worked out by individuals who really take an interest in the work, than by any Government officials appointed to such duty. It can only be carried on effectually from a pure love and desire of doing good to their fellow-creatures.

1467. You have stated that you think it would be advisable to have a period of five years' penal servitude, and some eight or ten years' transportation afterwards substituted for the punishment of fourteen years' transportation?—Yes. My recommendation was, that it would have a more certain appearance in the eyes of the criminal population if they knew that a sentence of transportation would be so carried out.

1468. It can be carried out in that way under the present system?—It can.

Captain *Walter Crofton*, called in; and Examined.

Capt. *W. Crofton.*

1469. *Chairman.*] I BELIEVE you hold the office of Chairman of the Directors of Convict Prisons in Ireland?—I was appointed Chairman of the Directors of Convict Prisons in Ireland under the Act of the 17th & 18th Victoria in 1854. In 1853 I was on a Commission of Convict Inquiry in Ireland, and for some years previous to that, as a county magistrate in England, I had given great attention and consideration to the subject of the treatment of criminals generally and the prevention of crime. I mention this to the Committee to show that any opinion which I may give is not alone derived from my official connexion with the subject.

1470. What was the state of the Irish convict prisons at the time when this Act into which we are now inquiring was passed?—As deplorable as it is possible to conceive; the prisoners were morally and physically prostrate in every way. There was a want of the element of hope in them, of education, and of everything one would wish to find in prisoners, and which exists in the convict depôts in England. The prisons were overcrowded to a great degree, and my statement will be corroborated by my reading a despatch from the Governor of Western Australia, who had just received a large number of Irish convicts.

1471. What is the date of that despatch?—September 11th, 1854. The prisoners had left Ireland before our Board was formed. I will read an extract of a few lines from our First Report, which introduces this despatch: "The deplorable aspect and apparent destitution of the Irish convicts appeared to us to require immediate attention, and we have endeavoured as far as possible to remedy this state of things, which contrasts strongly with the condition of those in England. Our opinion is corroborated by extracts appended from the Reports of the Governor, Comptroller-general, and Superintendent of Convicts, &c., in Western Australia, dated 11th September 1854, and forwarded for the information of the Secretary for the Colonies, —extracts from a despatch from Governor Fitzgerald to the Right Honourable Sir George Grey, Baronet:—'11th September 1854. Some of the Irish prisoners, per ships 'Phœbe Dunbar,' and 'Robert Small,' have proved in many instances, I regret to say, an exception to this very gratifying state of things; the result of recent experience and close observation of these men, you will perceive, induces the Comptroller-general to hope that men from the Irish prisons will not be sent to this colony with tickets of leave. If, therefore, future drafts be sent, I fully concur with the Comptroller-general in thinking that this class of prisoners, more especially than any other, should remain inmates of the prison at Fremantle, under rigid control, for at least twelve months, to give any hope of sending them forth into the community trained to habits of industry and self-reliance, which they appear to be somewhat indisposed to exercise in general.'" Then there is an extract from the Report of the Superintendent, under date of 10 January 1854, which was two or three months afterwards, with reference to the same subject: "In the instances of the Irish prisoners received per the ships 'Robert Small' and 'Phœbe Dunbar,' it was held by judicial and medical authority that their prostrate condition, physically and morally, the result, it was conjectured, of long imprisonment, low diet, and bad training, rendered it necessary that they should be subjected to a course of preparatory discipline, arbitrary in duration in some cases, but relative and proportionate to the term of sentence in others, prior to their being exposed to the trials of a strange climate and novel society; and certain compensating allowances in these arbitrary cases were then discussed and decided upon." It then says, "But it may be remarked

marked as a noticeable feature in the idiosyncracy of the Irish prisoners, that is to say, those who arrived direct from Ireland, and who had not undergone the present discipline held applicable to convicts sentenced in England, that there appears a singular inaptitude to comprehend the nature of moral agencies, or to be affected by them; neither do they seem to understand the desirableness, we will say, of self-reliance, or the necessity for the exercise of habits of propriety, industry, and prudence, as a means towards extricating themselves from the consequences of former errors." I am reading this corroboration of what I have stated to lead the subject to the reason why tickets of license were not issued in Ireland until recently. What the Governor of Western Australia thought that he could not do in Western Australia, viz., to give them tickets of license, we felt, for similar reasons, as directors of convict prisons, we could not recommend in Ireland. These reasons have been pretty well explained from his letter and from what I have stated. I will, however, read a few additional lines from our Report: "The same feeling which prevents our inflicting on a colony convicts who have not been subjected to a proper course of prison discipline, also precludes our bringing forward prisoners for discharge in this country on tickets of license, as in England. We consider such ticket of license to be a sort of guarantee to the community, that in consequence of a prisoner having been subjected to a proper course of prison discipline and reformatory treatment, he is considered a fit subject to be received and employed by those outside the prison. Such reformatory course not having hitherto been pursued in this country, we have not felt ourselves justified in recommending the issue of tickets of license."

1472. You did not for some time after the passing of the Act recommend any such issue?—We did not recommend it until within the last five or six months.

1473. Did you take any steps in the meantime, with the view to recommending it subsequently?—The first steps that we took were to establish a proper system of discipline to enable us ultimately to carry out the Act. The first part of that system was to remedy the overcrowding which existed. There were upwards of 1,000 more in the prisons than they could properly hold, and the Lord Lieutenant (Lord St. Germans) considering that the best course to relieve this overcrowding was to take the Penal Servitude Act as a basis with regard to the punishments, in which a four years' sentence of penal servitude is considered adequate to seven years' transportation, and six as the maximum of 10 years, &c.; we were then instructed to prepare a list of prisoners so circumstanced, and recommend the best conducted that we could find of them for discharge from time to time, absolutely. This was done, and at last the prisons were reduced to some sort of order, so that we could arrange them and establish a proper course of discipline, taking care that the system of separate imprisonment was commenced with, and then following out the English system with regard to public works afterwards, establishing gratuities to give convicts the element of hope, and induce them to conduct themselves properly.

1474. Lord *Naas.*] When was the Irish Prisons Act passed?—Since the Penal Servitude Act.

1475. What is the date of it?—August 7th, 1854.

1476. Was there any previous Prisons Act passed for Ireland?—No, excepting a very old Prisons Act.

1477. There were no Acts of Parliament relating to Ireland, similar to those regulating the management of Pentonville, Millbank, and the prisons here?—No.

1478. Then in fact there was no legal authority till 1854 for the management of the Irish convict prisons?—There was not.

1479. Mr. *S. Fitzgerald.*] Does your observation as to the crowding of the prisons refer only to the convict prisons, or generally?—Only to the convict prisons.

1480. *Chairman.*] Will you proceed to state what other steps you took with reference to the carrying out of this Act?—I must trace the matter up to that time, in order to show how it has worked gradually to the present. We found that there was no separation for the juveniles; the juveniles and adults were all together in the convict prisons. Our first act, therefore, was, to recommend the erection of a penal reformatory. I call it a penal reformatory, to make it as distinct as possible from the general character of a penal prison.

Capt. *W. Crofton.*

22 May 1856.

There are now in the Irish prisons, out of a number of 2,600 males, 700 (I am speaking in round numbers) convicted under 17 years of age. I found, on examination of, perhaps, 180 or 200 of these, that from bad training and ignorance, they required a certain system to be pursued, which should partake a great deal more of the reformatory element than the penal; therefore this prison was recommended to be of a penal reformatory character, in order to introduce that element. This has been approved, and an Act passed for inclosing Lusk Common for that purpose.

1481. Whereabouts is that?—Within 11 or 12 miles of Dublin. In the meantime we separated the juveniles from the adults, and pursued a proper system with them, so far as we were enabled to do so. We then found, by examination in the different prisons, that the educational departments were extremely neglected; that though there was some teaching, there was no training; and that really the ignorance was the most deplorable thing which could be imagined, not the fault, probably, of the prisoners themselves, but of those who were teaching them. We at once selected two schoolmasters, whose antecedents gave us hopes that they would effect good amongst the prisoners. One was a ragged-school teacher, and the other had been a schoolmaster in a large union, where he had had a great deal of experience. We recommended their being appointed head schoolmasters for the prisons, and also being sent at the expense of the Government, to visit the different penal and reformatory establishments in this country, for the purpose of seeing the sort of principle which we expected them to act upon and carry out in the prisons. This they did, and I am happy to say with the most gratifying results; for, notwithstanding the state of things which existed formerly, we have been able within this short time to report very differently, and the alteration with regard to the prisons is obvious to any one who visits them. We have been enabled to report now, that "In our last report we complained of the inefficient state of the educational departments of the convict depôts, and stated the importance we conceived should be attached to them in this country, recommending, at the same time, that they should be placed under the inspection of the National Board of Education. Experience has proved that we were correct in our opinion; the report of Mr. M'Gauran, the head schoolmaster at Mountjoy prison, showing that after a very careful examination of the prisoners at that establishment he found that 96·2 per cent. were almost without any education at all; a fact, we submit, calling for every exertion to render the educational machinery as perfect as possible, in order to open the minds of the prisoners by a system of training as well as teaching. Sensible of the very great importance of establishing a proper system of education in the prisons through which, unfortunately, thousands of human beings must pass, who are in turn subjected to its influence, we are gratified at being enabled to state that, although much of the past year has been taken up in arranging schoolrooms, classifying prisoners according to their attainments, appointment of schoolmasters, &c., a great desire has already been evinced by the prisoners to receive instruction; and this is more remarkable, as proceeding from some advanced in age who, at the commencement of the year, attended school with the greatest reluctance," and that is quite true; it was with the greatest reluctance we could get them at first to come to school, but afterwards they came willingly, and the progress which the prisoners have made within the last twelvemonth is perfectly marvellous. But then, the schoolmasters have had their hearts in the work, and have led these men's minds, such as they were, to the utility of education; and certainly the fruits have been much more than could have been expected.

1482. Lord *Naas.*] What prisons are those to which those schoolmasters are attached in Ireland?—One master, I am sorry to say, left us for Australia a few months ago; the other is at the model prison of Mountjoy. We trained several other schoolmasters under these two persons, so that a uniformity of system might prevail throughout the prisons, and which therefore told, not only with regard to those prisons which these two masters were in, but throughout the establishments.

1483. Were all the old schoolmasters got rid of then?—They were all got rid of with the exception of one.

1484. *Chairman.*] Was the course which you adopted with regard to female convicts somewhat similar?—Yes. We were fortunate in getting two schoolmistresses, and certainly have attained the greatest possible results from their appointment.

appointment. The state of the female prisoners was really deplorable, and we have large numbers of them, for in the convict establishments we now must have nearly 700 female prisoners.

1485. Have the results there been equally satisfactory?—The results there have been quite extraordinary. Women who seemed so lost, that when you entered the prisons, you felt there was a character about them which was in every way to be deplored, are now totally different, and persons who now visited them would see what these schoolmistresses have achieved, for I look upon the improvement as principally due to education. The great desire now with the women is to come to school and be educated and enlightened; formerly it was their endeavour to keep away from it. The value of a certain kind of education, not a high education, but a moral training, is felt throughout the whole establishments both by males and females.

1486. You have also effected a system of separation of juveniles from adults?—Yes, temporarily, until our prison is erected. We are now commencing to erect a juvenile prison at Lusk; but at the same time we are enabled to place them separately from the adults, and successfully to get on with them, I hope.

1487. How soon was it that you thought yourselves justified in adopting the issue of tickets of leave?—About November last, we felt that we had some grounds to suppose that they might be issued carefully, and under proper safeguards.

1488. What is the plan which you have adopted for that purpose?—The plan is by the institution of intermediate establishments between the prisons and the world. We found that men discharged out of the prisons in the ordinary way were perfect children; they did not know what to do; they had not been thinking for themselves for years, and were dependent upon every person they came near; and whatever might have been their intentions to reform, the moment they were outside the prison they fell into their old evil associations again, and were quite astray as to what they should do. This was partly what induced us to recommend a system of intermediate establishments. We thought also that we should be enabled to place them in a position in which the community would be rather more satisfied with the test of their reformation; for unless the community would employ the discharged criminal, we felt that whatever we might do in prison, the difficulty was not solved. It is quite clear from what has occurred in England, and what has been going on for some time, that that has been the great difficulty. The people are not satisfied without a test of a man's character, however exemplary you might term him and consider him in the prison, where he is watched by prison officers and every one around him, still it is not considered by the world as satisfactory as if he was placed in a position where he would be exposed to temptation: we therefore recommended the institution of these establishments, where the men would have greater freedom of action.

1489. Lord *Naas.*] What establishments are those?—There is one in Smithfield, in Dublin. We have Smithfield Prison, as an industrial establishment (if I may so call it), to hold 60 or 80, and another at the mouth of Cork Harbour (Fort Camden). Our object in having small numbers was, because we felt that individualization might be brought to bear upon them, and that we should really be able to get at the characters of these prisoners better. Smithfield was commenced in January of this year.

1490. The system was altered?—Quite so; the prison was converted into an industrial establishment. Of course the arrangements had to be altered. I will explain in detail the arrangements at work at Smithfield, with the results that have as yet taken place, and the numbers which we have discharged from it, both on licence and absolutely.

1491. *Chairman.*] What is the first point to which you propose to draw our attention?—The rules which govern the establishment.

1492. When were they made?—At the formation of the establishment in January last. The number at Smithfield is from 60 to 80; the number constantly fluctuates.

1493. Lord *Naas.*] What is the number at Fort Camden?—Eighty-five.

1494. Is the management at Fort Camden and at Smithfield precisely the same?—The management is, but the class of prisoners is different.

1495. Mr. *S. Fitzgerald.*] Do the rules state how the selection of the prisoners is made?—Yes.

Capt. *W. Crofton.*

22 May 1856.

1496. *Chairman.*] We understand that these rules are the rules now acted upon?—Yes, and they will explain the establishment at the same time.

1497. What are they?—"The Government convict establishments in Ireland, of an industrial character, are, Smithfield, in Dublin, and Fort Camden, at the mouth of Cork Harbour. There soon will be an additional one opened in Dublin, and another at Fort Carlisle, on the opposite side to Fort Camden. In Smithfield, tradesmen, such as tailors, shoemakers, &c., &c., and invalids, are employed. At Fort Camden there are able-bodied labourers, stone-masons, stone-cutters, carpenters, &c., selected principally from Spike Island, which is a large depôt for the employment of that class of men. At present only those prisoners sentenced to transportation are confined in these establishments. When convicts, by prison character and length of servitude (as three years out of seven years, and four out of 10, &c.), are thought eligible for tickets of licence, they are removed either to Smithfield or Fort Camden, according to their class, in which they are detained until they can procure satisfactory offers of employment, or give some sufficient guarantee that they have the means of earning an honest livelihood (for which purpose every reasonable facility and assistance is afforded to them), when they are released on licence. During their detention, their reformation and good intentions are further tested by giving them increased liberty of action, and by employing them, as far as possible, like free labourers. Every effort is also made for their further improvement by means of lecturers and other instructors, and attention is paid to render them in all respects fit to mix again in the world from which they have been long withdrawn. The lecturer, trades, instructors, and every one connected with the establishment, aid in procuring employment for those who deserve it, and who do not wish to return to their old haunts, even if employment were offered. No licences are granted to penal servitude cases. The system of gratuity in the prisons is dependent on classification, based on returns of discipline, school, and industry. When, in these establishments, they are paid according to the work they perform, a well-conducted prisoner serving four years would earn about 5 *l.*, or more. When the gratuity exceeds 2 *l.* (which is not very often the case in Ireland, in consequence of the classification having only been introduced within a twelvemonth) the balance is retained for three months, unless good reasons can be shown for its being paid sooner. The community are better satisfied to offer employment after this test. Prisoners are sent to perform work that may be required, and return in the evening to the establishment; they are allowed to spend a portion of their gratuity money. Everything, as far as possible, is made a test, and all the instructors not only give the public the benefit of their supervision, but also of their labour. Every person connected with the establishment has an active duty to perform. The hospital warder is a net-maker, and has his reading and writing class in the hospital. When once employment is accepted, the Government have no further cost, but exercise a supervision as far as possible. At the expiration of four years, should a prisoner sentenced to seven years' transportation be still in the establishment, he will be discharged absolutely, that term having been deemed equal to seven years' transportation. If it is found (and it has been found) that men with exemplary prison character do not stand the test required, they are returned to the prisons as unfit to be discharged on licence in a country requiring the greatest caution to be observed."

1498. What paper do you now hold in your hand?—This is with regard to the manner in which the time is employed. If the Committee would like to hear as to the employment of the prisoner's time, I have full details.

1499. The Committee would be much obliged to you for any details relating to this subject, which is a very important one?—Before I commence about the lectures, I will say that we were fortunate enough to find a gentleman who had been organizing adult evening schools throughout Dublin, a Mr. Organ; he was recommended by the National Board, as being a likely person to suit our purpose; he was appointed as lecturer, which will explain what I am about to state. Lectures are given every evening for two hours, of such a nature as to prepare the prisoners for the world in which they are about to mix, whether their destiny should be a colony or at home. I have with me the subjects of those lectures for a month; the headings of them I will read to the Committee (if they think it desirable), to show how these prisoners are instructed, so as to prepare them for the world. Should any prisoner misconduct himself, he is at once returned to

the ordinary prisons. The prisoners receive constant visits from their respective chaplains. The employment of their time is from five in the morning until nine at night; the time for labour is 9 ¼ hours; exercise and meals, 2 ¼ hours; lecture, reading, and prayers, 3 ¾ hours; cleaning their cells and washing themselves, ¾ of an hour; so that they are employed for 16 hours out of the 24. There was a wooden building in the prison, fortunately, which we have turned into a sort of mechanics' institute and lecture-room, where these men study by themselves, and where these lectures go on, and which we make a mechanics' institute in the evening, but they are employed 16 hours out of the 24. Their dietary is coarse, but ample; the expense being about the same as it is in the prisons, with scarcely any difference. Their gratuities are 9 *d.* a week as a conduct gratuity, which they have obtained from the prison-discipline system; and in addition to that, they have now a small gratuity according to the value of the work which they perform. That would be inconsistent in a prison; a man might be a very good skilled workman, and yet an ill-conducted man; and, therefore, in a prison, to pay them in that way would be unjust; but assuming that they are all well-conducted men who came to this establishment, a man may then be paid according to the labour he performs: so that in addition to his conduct-gratuity he gets a gratuity for the labour he performs. With regard to the subjects of the lectures, I will read the headings of the lectures from the 17th of March to the 11th of April, to show the system as carried on: "Monday, Pursuit of Knowledge under Difficulties. Tuesday, Remarkable Inventions. Wednesday, New South Wales and New Zealand. Thursday, Man, his Duty to God, his Relation to his Fellows. Friday, the Atmosphere and its Uses. Monday, the Atmosphere and its Uses. Tuesday, Railways and Electric Telegraph, their Origin, History and Progress. Wednesday, Printing, and its History. Thursday, What a Man with Brains may do. Friday, Coal and the Coal Mines. Monday, Physical Geography and its Curiosities. Tuesday, the Electric Telegraph, and its Uses. Wednesday, on Self-denial and Decision of Character. Thursday, some Remarkable Inventions. Friday, Canada, and its Resources. Monday, the Seasons, the Calendar, and the Tides. Tuesday, Works of God. Wednesday, Wonders of Science. Thursday, Temperance, and the Cost of Drunkenness. Friday, what Machinery has done for the World." The men make their notes of the lectures as they go on; and on each Saturday evening there is a sort of competitive examination. Now, these men were lamentably ignorant when they entered that institution; they were perfectly uninformed, although many of them could read and write; but it is not the case now. Before they have been at work for two or three months, as Lord Carlisle (who is a visitor there three or four times a week), can testify, the competitive examinations which they go through are marvellous. They show that they understand these subjects, which I have been just alluding to, and that they can appreciate the advantage of going to a colony, or of doing well at home when out of the prison. There is another thing which I can speak of, for I have looked very much into it, and have seen very many men since they have left the establishment. I found that many who came there with excellent prison characters, yet came there with every disposition to go off to their friends again when tickets of license were issued; they were bent on returning to their evil associations in Ireland, and to the neighbourhood where they had been badly trained; but after a time, I found that many of these men felt it to be to their advantage to break these evil connexions, and preferred waiting on the chance of getting some situation in Dublin, instead of returning to their old localities, intending ultimately to get to the colonies, when they had saved sufficient money to pay their passage. There are now several in Dublin whom we have discharged; I have a list of the number. There are many doing uncommonly well who have got employment; their employers come themselves to attend these lectures occasionally. I have only brought evidence with regard to those men who have been out for about two months, because the first two months is generally the time when they would get into trouble. There are 23 discharged on license, who have been out for nearly two months. Altogether, 100 have gone through the establishment up to this date; but I am speaking of those who have had the test, and who have been out for the period named on license. Twenty-three have passed into the world through Fort Camden and Smithfield, and I can account, up to the present time, for the regular and satisfactory

Capt. *W. Crofton.*
22 May 1856.

employment and conduct of 21 out of the 23; but as I obtained the return very recently, only two days before leaving Dublin, the other two have not answered, therefore I cannot claim them. I think we are bound to show, not only that those who have been discharged are not re-convicted, but that they are doing well, in order to establish our case, that we have reformed them.

1500. You have ascertained that with regard to the 21?—Decidedly; and of 10 out of those 21 I can speak personally, because they are in employment in Dublin, and are going on satisfactorily and well. They constantly, sometimes once a week, and sometimes twice, attend these lectures. This of course is an example to those who are remaining in the establishment, patiently waiting till some employment comes. I find that these offers of employment, in consequence of good conduct, are coming in much faster; and, indeed, from the public coming to this institution, and seeing the way in which it is worked, the prisoners have the means of helping themselves, if they are willing to do so, by evincing their industry.

---

*Lunæ, 26° die Maii*, 1856.

MEMBERS PRESENT.

| | |
|---|---|
| Mr. Baines. | Mr. Massey. |
| Sir John Pakington. | Mr. Beckett Denison. |
| Mr. Adderley. | Mr. Deedes. |
| Mr. Henley. | Mr. Seymour Fitzgerald. |
| Mr. Wickham. | Mr. Monckton Milnes. |
| Mr. John Wynne. | Mr. Ker Seymer. |

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

Captain *Walter Crofton*, called in; and further Examined.

Capt. *W. Crofton.*
26 May 1856.

1501. *Chairman.*] WHEN the Committee adjourned on Thursday, you were about to give some further details with regard to the new system adopted at the Government convict establishments in Ireland?—Yes.

1502. Will you proceed from the point at which you left off?—In recommending these establishments, we found that there was no new principle to be tested as to the treatment of criminals. We were merely adopting what had been found successful by philanthropic institutions in this country and on the Continent. All that was novel was its application to the convict establishments; and as the success of the philanthropic institutions which had been tested in this country and on the Continent was dependent upon individualising and acting on men in small numbers, through moral agency, our experiment, if I may so term it, was how we could adopt prison machinery, that is, the officers of prison establishments to become moral agents. In consequence of the vacancy of a schoolmaster, we were enabled to make a fresh appointment, which we termed that of a lecturer to the institution in Dublin. He was a person fortunately with a speciality for the calling, and was practically conversant with the different reformatory institutions here and on the Continent. There was therefore no difficulty in that respect; but we had to adopt the existing prison officers as our trades' instructors, and, as we hoped, our moral agents; and there was apparently our difficulty. A shoemaker instructor was put over his class of shoemakers, and told that he was to be responsible not only for the industry of the men under him, but also for their characters; that he was to make himself conversant with all concerning them. The same was told to every man in charge of a class; the tailor of his class, the carpenter, and so on. They were informed that during the time of instruction at the trades they were to converse with the prisoners, allude to the subject of the lecture of the preceding evening which they all attended, and in every way to act as moral agents throughout the number of hours that they were with them; in addition to which, they were to aid in procuring employment, where they could do so, outside the prison for the men on discharge. We find this work extremely well; we have now discharged 51 males on tickets of licence, and 18 females; 49 males have been

been absolutely discharged, making a total of 100 males who have passed already through these intermediate establishments, one at Smithfield, in Dublin, and the other at Fort Camden, at the mouth of Cork Harbour. I have had a return, and a very accurate one, collected of those who have been discharged on tickets of licence upwards of six weeks, and which would afford some test, because men when first they go out are more apt to get into trouble. I have a return of the 23 who were discharged, and who have been out six weeks and upwards; 21 out of the 23, I am prepared to prove, from the employers and from themselves, are doing well, and there is every satisfactory idea that they are reformed men. We have 10 or 12 now in Dublin, in employment, who constantly attend the lectures, though discharged from prison, and in many cases their employers come with them, which I think bears testimony to what the lectures have done for the prisoners. Our lecturer has lately, within the last fortnight or three weeks, thought of a plan (and to me it appears a very good plan), of collecting those men who are on licence in Dublin at fortnightly meetings in the evening, for the purpose of letting them put their savings in the savings bank; and one meeting has already been held, attended by every man in Dublin who has had a ticket of licence issued to him, and a deposit of 1*s.* from his wages has been made by each man to commence with.

1503. How long has that been done?—That meeting was about a fortnight ago.

1504. How long has it been the practice for this to take place?—That was the first meeting, the only meeting that has yet been held; and they all attended, to put down their shilling each out of their wages. Although I have only made a calculation with regard to those men on tickets of licence who have been out that time, yet there are many others who have been absolutely discharged, and have had the benefit, if I may so term it, of these intermediate establishments, who we know are doing well, whom I have seen personally many times; and I am quite sure they are giving satisfaction to their employers, and are going on in an honest course.

1505. Have you made it your business to have inquiries made respecting them?—Yes, and I have recently seen the employers of the men myself.

1506. What have been the results, so far as you have ascertained?—Most satisfactory. So far as regards the freedom of agency which these men have to do wrong in the establishment, we have on several occasions tried them in this way: I have employed them when public works have required it. A carpenter having been required at the Model Prison for some time, I have tried the experiment, if I may so term it, of sending one of these men every morning to this work, through the city, nearly two miles off, and back again, to return to the lecture in the evening; and he has done this for nearly two months, every day, by himself, no warder with him; and, passing by the public-houses, he returns regularly, and performs the day's work both to the good of the public service and to the satisfaction of the governor of the prison where he is working. I have sent down other prisoners with messages from one prison to another, and they have returned; many men, a week or a fortnight before the time of their discharge, I have allowed to go out and purchase their tools, so that they may not be out of work for any want of that kind, also their clothes; they have returned punctually. I have found no appearance of anything like drink on them, or of any irregularity whatever. Each man is allowed to spend a certain portion of his earnings; his earnings perhaps would average 1*s.* a week, and he is allowed to spend 6*d.* of it if he should so desire. There are many who have not drawn a farthing; they prefer keeping the money for the purpose of emigrating, in many cases. Others again have bought little matters for their breakfast, such as a herring, and their clothes, and their tools as they have required them, and so on. They dine together in a large hall which acts as a mechanics' institute, and their exercise is taken free from supervision; they are not watched in any way, and we have found no irregularity whatever; it is impossible to find a more orderly establishment in every way with regard either to language or conduct. There were three cases at the first opening, of men who were sent from the prisons, with respect to whom, after a fortnight's test, I found, although they came with exemplary characters from the prisons, they were not persons that would do to be trusted; they wanted that sort of watching which we could not give them, and were returned to the prisons. There is always, as will be seen, a sort of nucleus preserved in this establishment; and though large draughts come occasionally of 30 or 35 from the prisons, in the course of three or

Capt. *W. Crofton.*

26 May 1856.

four days they all settle to their places in consequence of this nucleus which is left, and the establishment goes on orderly enough. We have had 80 in at a time; there are at present only 60. It is important that there should be small numbers, because it gives greater facilities for individualising. With regard to the work performed, there is no doubt that considerably more is done than was ever performed in the prisons. There is an amount of willing industry that we do not find in the prisons generally; and as the trades' instructors in this establishment were the prison officers, they are very good judges with regard to the willing nature of the industry. In addition to this establishment at Smithfield, there are two others; one has been recently opened; the other has been open the same time as Smithfield; it is at the mouth of Cork Harbour. It does not present the same advantages as Smithfield for getting employment for the men, one being in Dublin, and the other isolated; but still I am satisfied that the working of it is good, that the same principle pervades it, and that we have reason to be satisfied with the officers who are there; of course they have been selected for the purpose from the different prisons, but we approve of its internal working.

1507. How long has that establishment been in operation?—It has been in operation the same time as Smithfield; it commenced in January last; and Lord Carlisle, who has looked thoroughly through the establishments, and is as practically conversant with the Smithfield one as I am, from visiting it three or four times a week, and looking over every book and register connected with it, is so satisfied with its working, that he has allowed us to establish others, and I have just opened another at the mouth of Cork Harbour, opposite to Fort Camden, Fort Carlisle, with the same number of prisoners, namely, 85. In a fortnight's time we shall open another industrial establishment in Dublin to hold 70.

1508. How many will you have altogether?—There are 230 prisoners at the present moment on this system; there will in a fortnight's time be 70 more, making 300.

1509. In how many establishments?—In four establishments. We are then going to erect (and they are in the course of erection) eight moveable iron buildings, the same as there were at the Curragh Camp, or at Aldershot, for the troops, to hold 50 in each, so that the same system can be pursued; that is, individualising in each prison or tent, if I may so call it, the 50 prisoners, and keep each sound in itself, with the power of moving these prisons as we wish, or as the public service requires.

1510. What kind of buildings are these?—Just like the soldiers' tents; we have, in fact, taken as a model what they had in the Crimea, at Aldershot, and on the Curragh. They are soldiers' iron rooms, lined, with beds in them, to hold 50, and an officer's room on each side; they are inexpensive. The great objection to convict labour has been that you must find a large public work, sufficient to warrant the erection of an expensive prison; and if you combine well-conducted prisoners and indifferently-conducted prisoners, and apply them to that sort of labour, it is necessary to have a kind of security which does cause expense. But if we make a good selection for small works, as we are doing, we need not be particular about the sort of security or the number of prison officers placed over them, and therefore it will be inexpensive labour to the public service. The first two buildings, which will be erected in about six weeks, will be on Lusk Common, about 12 miles from Dublin, and the men will be filtered out of these two prisons of fifties into the community. They will be employed there in erecting our juvenile prison, or rather in commencing it. Men will be brought up from the forts I have spoken of, where they have not the advantages which Smithfield affords, being isolated; they will be brought up from those establishments to this one at Lusk Common, and as contractors will be doing work close to them, they would be in a place to offer these people employment if they deserve it; their state will be just the same as that of the free labourers, so far as having opportunities of committing themselves. The expense of each of these moveable and lined huts, to hold 50 men and three officers, will be 330*l.*

1511. Mr. *Deedes.*] Is that the same price as the price of the Crimean huts?—Exactly; I took the Government contract for them.

1512. Mr. *Henley.*] Do the men sleep in an open room in them?—Yes, in hammocks.

1513. *Chairman.*]

1513. *Chairman.*] How many officers are employed in each?—With 50 men we propose placing three officers.

1514. Mr. *Henley.*] Are they in a separate room, or in the same room?—They will have little rooms off on each side; one at one end and one at the other, as non-commissioned officers have now.

1515. Mr. *Deedes.*] The beds are arranged on either side?—Yes.

1516. And the officers have a room at each end?—Yes.

1517. *Chairman.*] How many of these huts are you now providing?—We have contracted for eight for 50 men each, making 400; so that in two months we shall have 700 men on this system. It was a system which only wanted proving in its soundness with a small number first, because it is merely a multiplication of that small number; the same treatment which applied to the one would be good for seven or eight on the same principle.

1518. Do you contemplate any other advantages as likely to result from the system besides those you have mentioned?—I do indeed; and in considering that system, it was with a far wider view than merely as regarded tickets of licence.

1519. Will you point out the advantages which you anticipate?—We believe that it would be a substitute, and a very favourable substitute, for any general system of shortening sentences; it has been for some time generally felt that an uncertainty with regard to sentences is a great evil. However convenient (and I quite acknowledge the convenience) it may be for prison authorities to hold out, as an inducement to good prison conduct, that the prisoners should lose 25 per cent. of their punishment, or be released at the end of the third year instead of at the end of the fourth, I cannot think that such a course will tend to genuine reformation. I should be unbelieving in the reformation of any man who would require so strong a stimulus as to be let off one-fourth of his punishment to induce his reformation; I should infinitely prefer to see that man, with a well-modified system of imprisonment, at the termination of his sentence (such as that which I mention), in a situation where he can be tested before he goes out. I should hope that that would be a sufficient stimulus for any good prison conduct; if it was not, I should be very doubtful of the reformation of the man. I believe that the ticket of leave or licence, as it is called, in theory is good, but it appears to me to be practically stultified, because it requires such a delicacy in the supervision, the only thing that makes it valuable, on account of the paucity of the employment in this country, that it really is valueless. In a colony where people have no objection to employ a convict, the same delicacy of machinery need not exist for carrying it out; but if one is obliged to be so careful, that you cannot have a man watched, it appears to me that the value of your supervision is lost.

1520. Are you unfavourable altogether to the ticket-of-leave system?—I see that the ticket-of-leave system is so encompassed with difficulties in that respect in a country where there is paucity of employment, that I should infinitely prefer the other system.

1521. The system of establishments like those you have mentioned?—Yes; if a man has four years' imprisonment, I should give him three years, or two-thirds of his sentence at all events, in a strictly penal way, and afterwards on the footing I have just described, namely, either on public works, if an able bodied man, or at such an industrial establishment as I have spoken of with regard to Smithfield; and more than that, I think there may be other inducements added, and no doubt they do require strong inducements to good prison conduct; I consider that by a certain arrangement in the details of these establishments, which we have not yet made, but which certainly would be worthy of consideration, we may afford prisoners a sufficiently strong stimulus, without shortening their sentences.

1522. Is not the hope that a man may improve his condition, or lessen the period of his imprisonment, a very great stimulus?—No doubt; but I think that we could find other means that will more test a man's reformation; the stimulus referred to may be a very convenient one for prison authorities, but I must say that if a prisoner did not consider what I should adopt a sufficient stimulus, I should be very doubtful of his reformation. I think if we only pursued in these establishments what they do pursue at Bermuda, where good and bad are alike treated as to the amount that they earn; or in Western Australia, where the lowest class of labourer, as a prisoner, receives

Capt. *W. Crofton.*

26 May 1856.

6 ½ *d.* a day, and many do receive 3*s.*, and 4*s.* and 5*s.* a day as prisoners, I say, that if we pursue the same system with regard to these establishments before we discharge them, and give them (we will put it at the lowest they give out there) 6 ½ *d.* a day (and there can be no error in our giving that to well-conducted men if the same principle is adopted in giving it to well and ill conducted alike, both at Bermuda and in Western Australia), during the time these well-conducted men are in them, it will be sufficient inducement to convicts to behave well in prison, and will have a far better effect, as enabling men to save a sufficient amount of money when they come out of these establishments to go as free men to the colonies, and without injury to the colonists, because we give them men whose reformation we have really tested, and whom we are glad to adopt ourselves and to absorb ourselves. Any man, if a calculation were made, would have enough earnings to go to a colony as a free man.

1523. Could you combine the advantages of the hope which you say would no doubt exist in the one case, with those other advantages which you contemplate as arising from your own system, so as to have the benefit of both?—I believe there is another inducement which would make the hope quite strong enough, but I must first of all assume a principle conceded; it is with regard to the system of transportation. I have never made an inspection of any prison where I have not found prisoners waiting to see me, begging as a favour that they might be sent to the colonies; it is looked forward to as a boon and a privilege, and short-sentenced men have invariably come to me, and begged that they might go out to the colonies; and as education advances with them, or they really understand what the colonies are, so I am persuaded will the desire increase to go to them. At Smithfield, where we have lectures on the colonies, and their different advantages thoroughly explained to them, I received a letter from 45 persons out of 60, all signing and begging to be sent to the colonies from there.

1524. Mr. *Henley.*] In the case of a man sentenced to four years' penal servitude, what amount of money should you contemplate, supposing his conduct to have been not of the best, but average good conduct, would accumulate for him in the four years upon the system you have indicated?—It would depend upon how long we kept him in this institution, because I would not give men high gratuities during the time they are in the prisons where they are good and bad alike; but I would pay them highly when they show by good conduct that they deserved to be drafted into these establishments. Any calculation would therefore depend upon the periods for which they were in these establishments.

1525. Assuming a man to be in the better part of the establishment which you have described, and assuming him to have got into it as a man of good conduct, and that the course is pursued with respect to him during the whole of the four years, which you seem to indicate as being desirable, what amount of money would a man of that sort have at the end of the four years?—He would have something near 15 *l.*

1526. Assuming a man to have arrived at the end of the four years with 15 *l.*, and to have had a wife and two or three children when he committed the offence for which he was sentenced to penal servitude, what in your mind would be the effect upon the honest labourers who had not committed an offence, of seeing a man at the end of four years, having been himself maintained by the Government, and his wife and family maintained by the parish, with 15 *l.* in his pocket to go to a colony; what would be the effect upon the minds of other labourers who might have known that man out of prison, they being in the same position of life as to family, and the means of earning which that man held?—The effect would be, that this man has expiated his offence, has shown himself to be a reformed man, and therefore he has earned latterly in the prison a certain sum to help him in that reformation; a more favourable effect I should fancy than would be produced by those who had been discharged without this good conduct, and as is the case from Bermuda, with 35 *l.* or 40 *l.* in their pocket, after committing the gravest possible offences.

1527. We will take the case of a man with a wife and three children, an ordinary unskilled labourer, not having committed an offence; do you think that that man, while maintaining his wife and his family, would be equally able to put by 15 *l.* at the end of four years to carry himself to the colonies?—Not equally; but that man has the blessing of a good character, and can go out without any money to the colonies.

1528. That

1528. That is not always so, is it?—There is scarcely any difficulty with a man with a good character, because the funds of the Colonial Emigration-office will aid such a man to go; there is a payment of 10*s.*, for instance, to Australia.

1529. What do you suppose would be the effect, in a village, of a man coming home from Bermuda with 30 *l.* or 40 *l.* in his pocket (which they have done), and the honest labourers in the same village, who have been struggling to maintain themselves and their families, finding that a man who has been transported for 14 years has got 40 *l.*, while they have not a sixpence?—The worst possible effect; and it is the desire to remedy that which would make me alter the principle, which gives to men of bad character who have committed serious crimes very high rates of payment, both in Bermuda and in Western Australia, and which I would only make the premium for good conduct tested reformation.

1530. We will take a man who has been not of bad conduct in Bermuda, but of good conduct in Bermuda; he shall have been sentenced for a burglary, and served his 14 years; he comes home to his village with an accumulation of 40 *l.* in his pocket, the parish in the interval having kept his wife and children, and there being an honest labourer in the parish who has the same number of children and a wife, but who has not been able to accumulate a farthing; what would be the effect upon the other persons who had not committed crime?—It would have a bad effect, in my opinion.

1531. Then would not the system which you propose equally have a bad effect, only modified in degree?—No.

1532. How do you distinguish between them?—Because I consider that the test which a man would have to go through on my system would prove him a reformed man, which I believe no prison treatment can possibly do.

1533. I am not speaking of whether a man is reformed or not, but I am asking you as to the effect which it will have upon other people who have not committed crime at all, in seeing a man who has been a criminal, though reformed, in a better position than they can hold who have never committed any crime?—That man would have suffered so much penalty before, that I do not fancy the effect would be injurious.

1534. Do you think that the effect upon other people who do not know what he has suffered, but merely see him come out with a sum of money in his pocket, will not be injurious?—I think not, because they all know what he has suffered. I think there are none amongst whom he would go but he would tell what he had suffered during the first portion of his imprisonment.

1535. Do you think that unskilled labourers who are struggling hard for existence, knowing that a man receives rations and clothes and lodging more than they can command for themselves, will have an idea that he has suffered very severely when he comes out at the end with 15 *l.* in his pocket?—I think that any of those labourers would be very sorry to place themselves in his position if they traced the thing through, and saw the penal establishment at work, and what this man goes through before he earns any money.

1536. They are not able to see the penal establishment?—No, but they hear.

1537. They hear that he receives a certain amount of food, which in the average is more than they can get; they know that he has good and warm clothes, and they know that he has a good building to live in; do you think that the effect may not be prejudicial in their minds at seeing this man come home with a sum of money in his pocket larger than they could have obtained for themselves?—No; because I think at the time that they hear of his having warm clothing and rations, they hear that at the commencement of his punishment he undergoes nine months' separate imprisonment in a cell, where the depressing influences, I think, will counterbalance any warm clothing and rations which come afterwards. I consider that the first portion of the punishment should be made so deterring, that there would be no fear of any improper effect being created outside by it.

1538. You think that in the case of Bermuda the 50 *l.* would be injurious?—Especially if it is given with sentences, as I have a return here, of a man just arrived having committed murder, and discharged with 42 *l.* in his pocket. I say such an effect must be very bad in the neighbourhood where that man is discharged.

1539. Have you ever had any personal experience in neighbourhoods where men have so come back?—Yes, I have.

 1540. And

Capt. *W. Crofton.*

26 May 1856.

1540. And you have no doubt found that it has led to an opinion that the man, instead of having been punished, has been very well circumstanced?—Some years ago I recollect bad effects from the system of transportation more than anything else, and from the circumstances under which men have gone to the colonies. I think that has had a great effect upon the people at home, for convicts have written to say, that after arriving they have received their liberty, and are getting on well, and making money; that I have known repeatedly to have a very bad effect at home.

1541. Have you known yourself an instance where a man has come back into a country village with 40*l.* in his pocket, what the effect of that has been?—No.

1542. You can well conceive what it would be?—I can well conceive it without knowing it; it must be most injurious.

1543. If you were told by a person who had had such a case under his knowledge, you would well believe that it might be injurious to the other people in that village?—Most injurious.

1544. Then the fact of a man coming back with 15*l.*, instead of 40*l.*, would be injurious in a less degree at all events?—It would be injurious in a less degree, with the system which is now established in the prisons; the men must have some inducement to conduct themselves properly. The great thing, in my opinion, would be to make that inducement as small as possible in the way of payment, whilst they are in the penal parts of the prisons, and afterwards I would only take the lowest scale that they pay either at Bermuda or in Western Australia, in order not to send them out with too much money in their pockets.

1545. With a choice of difficulties, you think it would be, on the whole, less injurious to give a man that inducement to good conduct in prison than to remit a part of the sentence under the ticket-of-leave system?—Most certainly.

1546. It is a choice of difficulties in any way?—I do not anticipate any difficulties in the arrangement which I have proposed, so that I can hardly term it a choice of difficulties.

1547. Do you think that there might be no injurious effect, in any degree, upon parties who have not committed crime?—I think not, provided the prisoners pass through these establishments direct from a prison.

1548. *Chairman.*] Have you any further information to give, or suggestions to make to the Committee with respect to the subject of their present inquiry?—I have.

1549. Will you be so good as to proceed?—It is with regard to the class of criminals that are sent to the colonies. I had just commenced by saying, that I never inspected a prison without large numbers of the prisoners wishing to be sent to the colonies; and I want to show that, so far from transportation having a deterring effect with regard to them, they treat it as a boon; and if they treat it as a boon, it is a question whether it might not be taken into consideration that it should be really made so, and that we should send our selected men to the only colony which is left to us.

1550. Western Australia?—Western Australia; and I believe, by so doing, we should do justice to the colonists, and at the same time ease ourselves of the very class of men who, although they have not committed the gravest crimes, are the most troublesome class to us, from a want of employment in this country. Such a man would be likely to relapse into crime, perhaps, in this country, though he would, in a new field in a colony, and with plenty of labour, be a reformed man; I believe that we might make even the small opening left us in Western Australia a very important element of reformation, both as regards our prison discipline and the ultimate reformation of the men.

1551. Do you believe that by that means also you could induce the inhabitants of Western Australia to take a larger number?—Not only Western Australia, but there is a field beyond that. Many prisoners who have been sent to Western Australia have already moved on to other parts of Australia. It has been found difficult for Western Australia to absorb beyond a certain number. I believe that from time to time these men would remove to other localities. I do not think that Western Australia can absorb very many at present, but it could of course employ more of this class than it could of any other you sent. Western Australia has many situations now held by convicts; it seems therefore that selected men would be the best to send there; I allude to police constables' appointments,

pointments, and many others, at 4*s.* and 5*s.* a day. It would be important for us to make known in our prisons that well-conducted men would be eligible for these sort of appointments; some have 2*s.* a day, others 3*s.*, others 4*s.* This would be a sufficient stimulus, added to what I have said, to induce good behaviour in the prisons, in my opinion. I have made a little calculation to show how I propose to carry it out. With regard to the Irish convicts, we discharge about 800 annually; roughly, at the present moment (and I have calculated roughly only, because it is impossible to do it otherwise), I could only find about 75 per cent. that would be, in my opinion, fit to enter the establishments of which I have been speaking. I think we may educate and train up more, but at the present moment I would say 75 per cent.; that would give 600 to pass, as it were, through these establishments. Western Australia can absorb; absorb is not the name for it, because it absorbs only at a very heavy expense on the part of the Government; however, Western Australia can find employment for from 600 to 800.

1552. Mr. *Henley.*] Annually?—Annually.

1553. Mr. *Adderley.*] Is that the Government of Western Australia, or the the colony?—The Government of Western Australia.

1554. Not the free settlers?—The colony is the Government; it has all been at the expense of the Government; it is the same thing. Giving England her proportionate share of sending to Western Australia, it would leave us about 200 whom we might annually depend upon to deport (I will not say transport) to Australia, and which I should propose doing, at the same time that others go into these different establishments, selecting men for good conduct, irrespectively of length of sentences, excepting for grave crimes.

1555. *Chairman.*] Would those whom you sent to Australia be altogether selected men?—Selected men, the same as for these establishments; they should have the first choice.

1556. Selected upon the principle you have just mentioned?—Yes, for good conduct. There would then remain 400 well-conducted men who had been tested to be provided for otherwise; 200, I should think it would be fair to assume, would colonise as free men at the termination of their sentences; and 200 there would be no possible difficulty in absorbing in the community at home annually, if the public had an opportunity of seeing their reformation thoroughly tested. We should have no difficulty, I am fully persuaded, in having 500 or 600 absorbed by this test. That still leaves us out of the 800, 200 men whom I shall not class as well-conducted prisoners; that is the 25 per cent. that would never pass through these establishments; men who have committed very grave crimes, and those whose prison character is bad; they must be provided for, and I should propose that a different system altogether should be laid out for them. We have Bermuda and Gibraltar, and I should propose that such men should be placed in those establishments, and in our own penal establishments; that they should be worked there until the end of their sentences, and when discharged, noted to the police of their localities; there need be no delicacy in it. I have done that in Ireland with regard to those who have been discharged, and who have not been thought fit to go to these establishments. It is noted to the police that such men should be watched.

1557. What sort of instructions have been given to the police?—If such a man has been discharged to his locality with every professed intention on his part to go on in the same course of crime again, the police have been informed that he intends so doing. There could be no possible compunction in notifying that to the police.

1558. Is a kind of circular addressed to the police, or how do you give them the information?—A confidential letter is sent to the head of the constabulary.

1559. Do you give the locality to which you suppose the man has gone?—The locality to which I know he has gone, because I pay his fare to that place, and it is notified to the head of the constabulary that such a man has gone there with the professed intention of carrying on his career of crime. In the case of such a man, I have no compunction in marking him; but I should have the greatest in the case of a man who I believed was a reformed character. Of course, in sending these men who have committed grave crimes, and these ill-conducted prisoners, to Bermuda, the system must be altered as to gratuities. We can have no men discharged with 40*l.* or 30*l.*, or else the penal element at once disappears.

 1560. Would

Capt. *W. Crofton.*

26 May 1856.

1560. Would you, with regard to this class, have any gratuities?—I would not; a man should have no gratuity unless his conduct showed that he deserved it.

1561. Mr. *Henley.*] The result of that arrangement would be, that all the men who had committed grave offences, or the men who had not committed grave offences, but were unreformed, would be let loose in this country without any means of subsistence, and with no protection, except giving notice to the police?—I think that the men who have been convicted of grave crimes are very few. Last year our proportion was only 33 for transportation; in England, Scotland, and Ireland together I think the number was 330. The grave crimes are very few, and they are not generally committed by the most destitute men.

1562. If I understand you rightly, the proportion of 200 out of 800 is the number which you give as being unreformed, and men who have committed grave crimes?—Unreformed, ill conducted, and men who have committed grave crimes.

1563. Then the result would be, that those unreformed characters, persons who had committed grave crimes, would be let loose at the end of their period of imprisonment, without any money in their pockets, to get on as well as they might in the community?—Yes; they have already been so for years; and, in addition, they have had others mixed with them whom you would now filter, and reform, and send elsewhere, where they can do well. I do not see that the difficulty is increased by discharging unreformed men in this country; they have been already discharged from time to time at the termination of their sentences.

1564. Have no means of alleviating or of improving that state of things occurred to you?—Yes. I believe, as I stated at first, that though I compute 25 per cent. of these men as not now being fit to go into these establishments, that number would, through educational progress and other means, be gradually lessened. What I am going to say is of course mere conjecture, but I do not believe that ultimately, perhaps, 10 would be found, where there are now 30 or 40, who would fail if we educate them properly.

1565. Whatever the number might be when lessened by improved education, have you still found any means by which that number might be provided for other than by sending them loose upon society here?—I believe it to be the best plan to retain them in our own country, because we have the means of watching them and rendering them powerless with a proper system of police. I believe that there is no country like our own for dealing with such men; I think any spot allocated for that purpose would end in a sort of Norfolk Island again; it would be of no possible advantage. I believe that if we cannot manage those characters with our good police system throughout the country, they cannot be managed elsewhere, but I do not anticipate that they would be any trouble to us. I believe the most troublesome class to us and to the police, are those very young men that I speak of, whom I would send to the colonies, and who are reformable and reclaimable; they are the bulk of our criminals, because we have now 450 sentenced to four years' penal servitude, where there are only 33 sentenced to transportation, and if we can deal with that mass, we solve most of our difficulties so far as troubles are concerned at home; and I believe that we can deal with that mass, namely, those with short sentences, in a way that would be satisfactory as to reforming the men, by taking them away from this country, and their evil associates, and placing them where they would be well received, and in circumstances which would tend to their well-doing.

1566. *Chairman.*] What is the system which you contemplate with regard to the treatment of female prisoners towards the end of their sentences?—Female prisoners are a very large number with us in Ireland, I regret to say.

1567. Do you find that a very difficult part of the subject to deal with?—I feel it a difficult part, but I do not think the difficulty is at all insuperable.

1568. Will you state what you propose in that respect?—The great difficulty with them of course was, to obtain employment for them on discharge; because although people will employ men, they are very careful how they will take women into their employment, into their establishments and houses. Therefore, first of all they must earn a character for themselves, and be placed in a position to procure employment; and the only means of doing this at all, that we saw, was in Protestant and Roman-catholic refuges. Of course the great bulk of our female criminals are Roman Catholics; we have now placed several in refuges.

1569. All

1569. All those refuges, I suppose, are entirely supported by voluntary contributions?—They are so supported; but the Government pay for the women at the same rate as they pay at Red Hill for juveniles, which is 5*s.* a week; and it is the business of the patronesses of the institutions (and they are doing so) to train these persons, give them liberty of action, the same as we do with the men, and to procure them situations. I believe it is the only way that they can be worked into the community. The patronesses desire to have corresponding refuges in Western Australia, and are, I hear, trying to get them up now.

1570. How long have these refuges been established with you?—They have been established for some time, but with us the system has only commenced six weeks. There has been a Protestant refuge, to which there has been a grant from the State of 50*l.* a year for the last 15 or 16 years, but there have been no prisoners placed there until recen ly.

1571. What is your system w th regard to the females at the convict establishments as to a ticket of leave?—We give a female a ticket of licence to be in a specified refuge; we arrange with the establishment about her going there, and if she misconducts herself, she comes back to prison. At the refuge there is a farm, where there is dairying and poultry, in addition to other things which they have been taught in the prison; the object is to teach them industrial employment as much as possible. Of course this prepares them for getting some situations outside.

1572. You say there is a ticket of leave; is it one of the express conditions, that if the woman misbehaves herself she shall come back to prison?—Yes.

1573. Have you the form of one of those tickets of leave?—Not with me; but the form as to misconduct at the back of the usual tickets of licence would enable you to do this; the licence ticket only limits the place where the person can be at large to the refuge.

1574. Have you any further information to give us on that point?—I have no further information, excepting that I see that the Governor of Western Australia, the clergymen, and others, complain of the great paucity of females there as being perfectly demoralising to the well-being of the male prisoners who are sent out; they complain that female emigrants do not come; and it does appear to me to be worthy of consideration whether with regard to women thoroughly reformed something could not be done in sending them to refuges in Western Australia, and introducing them there. One of the refuges in Ireland has a correspondence in Western Australia, and it appears desirable to consider whether these women could not be profitably worked off there; because although there are objections (and there has been on the part of the Governor of Western Australia objections), to receive female convicts, preferring emigrants, yet if those female convicts are reformed, or supposed to be reformed, by certain tests before they go, it might remove these objections.

1575. Mr. *Henley.*] What proportion of the female convicts are married women?—A very large number. I can scarcely be accurate enough to give you the proportion of them; but our class is not the same as in England; the majority of them are not prostitutes, as in England.

1576. You say the greater proportion are married?—A large proportion; not the greater proportion.

1577. So far as that went, it would not obviate the difficulty as to women in Western Australia?—Even if we could send 25 per cent. of those annually discharged to Western Australia, it would be the greatest possible boon.

1578. What is the practice in those intermediate establishments which you have been speaking of with reference to persons having access or communication with their families?—They do not have any communication with their families.

1579. That rule is kept up as strictly as in the prison?—Yes. If a special application was made by any member of the family coming, there would be no objection to it, nor is there with the well-conducted men in the prison.

1580. But it is not the system?—It is not the system.

1581. *Chairman.*] Is there any further information which you wish to give us with regard to the system established in Ireland?—I think not.

1582. You are aware that one subject of our inquiry here is as to the special provisions of the Act of the 16 & 17 Vict. c. 99?—I am.

1583. Your attention, I suppose, has been particularly directed to that Act since it came into operation?—Particularly.

Capt. *W. Crofton.*

26 May 1856.

1584. From your observation and experience, are you able to suggest to this Committee anything which you would consider an improvement in the provisions of that Act; anything which it is desirable to alter?—Yes.

1585. Be so kind as to state it?—I should prefer the establishment of the system I have described at the termination of the sentences to a ticket of licence.

1586. Besides that, is there anything which occurs to you as a desirable alteration?—From my reading of this Act, I understand that there is now power to send prisoners under penal servitude sentences to Western Australia; if not, I should suggest an alteration in that respect. But my reading of the 6th section is, that we may now send penal servitude prisoners there, and if that be true, if I am correct in supposing so, there would be no necessity for an alteration in that particular. I see it is stated, "or in any other prison in the United Kingdom, or in any part of Her Majesty's dominions beyond the seas, or in any port or harbour thereof."

1587. These are the words, are they not: "Every person who under this Act shall be sentenced or ordered to be kept in penal servitude, may, during the term of the sentence or order, be confined in any such prison or place of confinement in any part of the United Kingdom, or in any river, port, or harbour of the United Kingdom, in which persons under sentence or order of transportation may now by law be confined, or in any other prison in the United Kingdom, or in any part of Her Majesty's dominions beyond the seas, or in any port or harbour thereof, as one of Her Majesty's Principal Secretaries of State may from time to time direct;" those are the words of which you are speaking?—Yes; and I apprehend from that, that there would be no difficulty in sending penal servitude prisoners to Western Australia; if it is not so, I should suggest an alteration to include those sentences, for the reasons which I have already given.

1588. Have you any other suggestion to make with regard to the Act?—I have no other.

1589. Mr. *M. Milnes.*] Have you any English criminals under your care?—One or two; I think very few.

1590. Do you think, from your experience of the national character in Ireland, that there are reasons why the system you have mentioned, to which you have devoted so much attention, is more applicable to the Irish than to the English character?—I think not.

1591. You do not think that the susceptibility of the Irish would be a ground of distinction?—Not at all. I see the same susceptibility in England, where it has been tried in reformatory institutions; I see the same success attending institutions where it has been tried in England.

1592. What reformatory institutions for adults have we ever had in England of the same sort?—Two or three. There is one now in Westminster; a great many English and Irish criminals have passed through that, and they have done so after they have left our convict establishments.

1593. Are any large number of the convicts teetotallers?—I have never asked them: they are teetotallers while we have them.

1594. Is it your impression that they are so?—I could not say so, for I am not aware. I have never asked the question.

1595. Do you think it would be possible to apply this reformatory system, connected with full employment, to so large a body of persons without giving offence as to the competition with free labour?—I would employ them on the works which the public service requires, such as fortifications, &c. I do not see why it should give offence to free labour.

1596. I do not understand that in these milder reformatory establishments to which you allude you confine yourself to employment on public works?—No. I refer to industrial works besides. The able-bodied would be employed on fortifications, but the industrial works in the prisons might go on in the same way as they do now in prisons.

1597. And you think that so large an amount of industrial employment as you would give under this reformatory system would not come into dangerous competition with free labour?—No, certainly not; we should not give a much larger employment in industrial occupation than now. Work is still carried on in prisons. The principle is the same; it would only be that the men would have greater liberty of action whilst there; we should not much increase the work.

1598. Would

1598. Would you not contemplate some portion of agricultural employment?—I would rather not go to that until the other was exhausted, because I think there is plenty of other work which presses. Agriculture would be very good work afterwards.

1599. Do you not think that for a reformatory discipline the agricultural employment has great advantages over the other?—It decidedly has very great advantages; but I look upon it that there are public works to be performed, fortifications, and so on, and I can see no reason why they should not be as good evidence of reformation as agriculture.

1600. Quarrying, and so on?—The heavier work I would reserve for the more penal establishments, but earthworks, &c., I would employ them in.

1601. Would it be practicable to have this milder reformatory system going on in the same locality with the severer one?—It would be practicable, but I think not desirable.

1602. Would there not be a difficulty then in finding persons to do the severer labour of public works in the same locality with persons under the reformatory system; would it not be difficult to have the harder portion of public work going on at the same time, and in the same place, with the reformatory system?—I do not contemplate any application of these small numbers to those kind of arduous and troublesome works which you speak of, with regard to quarrying or anything of the sort; I should contemplate small earthworks and fortifications of the kind not now taken by prison authorities, and not requiring expensive prison construction and a large establishment. Upon a small work, which would require 50, 100, or 150 men, I should propose that they should be allocated where they were required, in the sort of tents I have spoken of, and the work, I think, could not be too hard for them; it would not be harder than for any other men who contracted to perform the work.

1603. Do you think that public opinion would understand that these persons who were employed under this milder discipline had before been subjected to a harder one, and that therefore there would be no reason for supposing that there was a premium upon vice?—I believe that the public thoroughly understand, that before they come to that part of their treatment, they have undergone a very severe system of discipline: I belive that is generally known. I have not the least fear that it would be any premium to crime.

1604. Would you in any case contemplate placing persons, under any circumstances, in these, what I would call, reformatory establishments, who had not been subjected to a penal discipline?—No. I would have every man subject to a strict penal course of discipline before he is placed in one of these establishments, or I should very much apprehend that it would become a premium to crime.

1605. But you think that if it was distinctly understood that no prisoner was there who had not been subjected to a previous penal discipline, there would be no fear of any misunderstanding on the part of the public?—There would be no fear whatever, in my opinion.

1606. And you have found from your experience, that that is not the case in Ireland at the present moment?—As yet, not at all; there is no feeling of the kind whatever.

1607. Mr. *B. Denison.*] Have you had sufficient experience of the feeling of the public with respect to men who have been let out on tickets of leave?—The experience of course has been limited; I said, "as yet."

1608. How long have you been in the habit of issuing the tickets of leave?—For the last four months.

1609. Is it not impossible for you to form any calculation as to the opinion of the public of the system, as regards these tickets of leave?—It is impossible to give an opinion of much weight; I only stated "as yet."

1610. I think you said that in the course of a short time you would have about 700 men on this system; in two months?—Yes.

1611. Divided into classes of 50 each?—Yes; excepting in three cases, in two of which there will be 85 in each, and in the other 60.

1612. Have you any protection or security for these men not running away, excepting the moral control which you have over them; there are two or three officers, you said?—There is nothing but the moral control, and the fact that these men are nearly at the expiration of their sentences, with good characters, self-respect restored, and certain earnings accumulating for them.

Capt. *W. Crofton.*

26 May 1856.

1613. How long have they on the average been under penal servitude before you let them out upon this system?—It would depend on the term which they had to serve; a 10-years' transportation man would be taken at the term of four years; a seven-years'-transportation man would be taken at three years.

1614. Even this system of locating the prisoners in different parts of Ireland is only an experiment?—It is only an experiment.

1615. And the experiment is, in getting these iron buildings, and placing them in different parts of Ireland, with two or three officers to each?—Yes, where the public service requires them.

1616. As yet you have found no difficulty in that respect?—None whatever; I explained that the men would be filtered, as it were, into these iron buildings, from where they are now placed at the forts, which will be intermediate between the prisons and these buildings again.

1617. Do you consider that their being located in these houses is the most mild system of dealing with them?—Not only mild, but efficient for what we have in hand, which is, to find out the character of every man, by individualising, in order to endeavour to reform him.

1618. It is the least penal towards them?—It is the least penal towards them also. But I should not do it from that motive so much as from wishing to ascertain the characters of the men.

1619. Are they usually employed in agricultural pursuits in these smaller establishments, so far as you have experience?—We have not employed them in agricultural pursuits at all; we shall do so in about a month or six weeks, because we are laying out a farm at the juvenile prison which we are about building. Then we shall begin with the agricultural pursuits with them, but we have had no experience of it; all that we have tried as yet is on fortifications at the mouth of Cork Harbour, and the industrial establishment which I have spoken of.

1620. To what particular employment do you intend to appropriate them in these smaller establishments?—They will be wherever the public service requires the labour. In the first instance it will be in erecting the juvenile prison for ourselves, and after that, when the War Department requires certain small fortifications to be erected, which they would otherwise do by contract, they will send for 100 or 150 or 50 convicts, and we can have one or two moveable tents placed for them where the work is required.

1621. Then, so far, you intend to appropriate them to the use of the Government?—Certainly, and only the Government at present.

1622. You would thereby avoid the possibility of their coming in contact with the public?—Yes; it would be only for the purposes of the public service.

1623. Assuming that there are no Government works to which to appropriate them, and for the moment applying your attention to England, if you are competent to give an opinion, how do you think that it would work where labour is more plentiful in some instances than employment?—There appear to me to be nearly the same facilities in England for the application of a small amount of labour in that way as there are in Ireland. It would apply to the contracts taken by the War Department in England for certain small batteries and fortifications to be erected in one place and another all round the country; and I believe that iron buildings could be erected to accommodate men in England as well as in Ireland. I allude to works which do not now come under the convict department at all.

1624. Are you of opinion that the employment of these men should not interfere with the free labour of the population?—I do not believe that t need do so.

1625. My question was, should it be a condition that it ought not to do so?—I would not make a condition of the kind.

1626. If it did interfere with the free labour of the country, would it not be an inconvenience to the free labour of the country?—I think not; not a greater inconvenience than at present, because one must bear in mind that at the period at which I place men in these establishments, in former days they would have been discharged, either at home or in the colonies, or probably would have been sent out on tickets of leave to compete with free labour; and our hope should be in their competing with free labour; because if a man has not employment,

ment, where is his reformation? Therefore he ought to be competing with free labour if he intends to reform.

1627. Mr. *Adderley.*] Do you consider that such institutions as you have been giving us an account of, viz., the intermediate establishments, would be better in the hands of private individuals than in the hands of Government?—I have the highest opinion of voluntary efforts, but I think they would still have so much to do in taking men from these establishments, that I believe the Government may well carry it to the termination which I have described, and still leave plenty for voluntary associations to do. I believe that societies of patronage must help us from the prisons; and that they will do so in Ireland, and that shortly, I am convinced.

1628. Is there not some fear that so long as such institutions are conducted by Government, they must retain a penal character?—They will do so slightly; but they need do so only slightly, in my opinion.

1629. As you have described them, I should be afraid that the public would see little difference between them and the public works' stage of punishment?—I think people will see a great deal of difference, because these men would be let out; they would have liberty of action, which they cannot possibly have in a public works' prison; they are watched by officers there, and they cannot possibly do wrong without they are very bad indeed.

1630. Do you consider it possible, in the eyes of the public at large, to distinguish this treatment altogether from a penal treatment?—I think it perfectly possible, and highly probable; and as far as my experience in this short time has been concerned with regard to our own prisoners, I feel that the prejudices against employing them are rapidly giving way, and that many persons now come and offer to employ men whom we can recommend, and look at the registers: I am of opinion that feeling will increase.

1631. Have you any satisfactory proof as yet that the public will be more willing to employ men from such institutions than from prisons?—On the small scale which I can lay before you, I have most decidedly, because I do not know any person who would come to a prison and take a man out; for the public do not believe the test of a man's character in prison to be sufficient to warrant his being employed.

1632. Have you applications?—Constant applications; because this establishment is open to the public in a great measure; many attend the lectures; inspectors of the National Board lecture on certain evenings, and the public come in, and see exactly the system that is pursued. There is no difficulty; in fact, several persons have come and offered men employment at the institution.

1633. Do persons coming to such institutions to offer employment ask for any certificate of character?—They look at the register.

1634. Is there any individual or officer whose function it is to give under his own hand such certificates of character?—Yes: it is the registrar's business to do so; it is the business of every officer connected with the establishment to be an agent outside; and when he hears of a situation, to mention it to those men, and try and get them employment.

1635. Is there any combination whatever of private assistance in such institutions?—There is none whatever.

1636. Neither in the way of contribution, nor in the way of visiting?—Neither in the way of contribution, nor in the way of visiting; but I hope that soon there will be in visiting.

1637. Have you ever considered whether it might be an addition to your plan to get private sureties for good conduct in the case of men gaining employment from such institutions?—I have considered it, and of course it would be a great advantage.

1638. You have not adopted any such plan at present?—No.

1639. Have you any intention of doing so?—Not at present; but our system is in its infancy. The principle appears to me to be excessively sound.

1640. Do you consider that such institutions will give facilities to men emigrating from them to other parts of the world?—Decidedly.

1641. Not only to the colonies, but to any foreign countries?—To any foreign countries that they may choose to go to; and from the system pursued in our institutions, the men will really understand what they are about when they go there.

1642-3. Do you consider that the emigration of discharged prisoners, through the

Capt. *W. Crofton.*

26 May 1856.

the process of such an institution, would get over some of the difficulties in the way of transportation?—I do, most decidedly.

1644. Do you not think that it would do even more so if such institutions were in the hands of private individuals?—I think it might.

1645. Mr. *J. Wynne.*] I think you stated that you were conversant with the English system carried on in the convict prisons before your appointment to Ireland?—I did not speak particularly of the convict prisons, but of the prisons generally, and the reformatories in England. I know sufficiently of the convict establishments to answer any question respecting them.

1646. Sufficiently to contrast the working in the two countries?—I am perfectly conversant with the convict system pursued in England.

1647. Do you find any greater difficulty in carrying out the penal part of the sentence in Ireland, especially the separate portion of the sentence, on account of the greater tendency to scrofulous complaints in Ireland than in England?—That was one great difficulty at the commencement; but in consequence of very careful watching, and leaving the power of giving exercise to Dr. Rind, who thoroughly understands the subject, we were enabled to treat scrofulous patients, with very few exceptions indeed, in the same way as others.

1648. At first did you find a great many prisoners break down in their health before the expiration of their period of separate confinement?—A great many did so before our Board was formed, but I have not found so since, by giving an unlimited power of exercise.

1649. Are you aware that a number have been annually discharged, absolutely on account of their breaking down in health?—A number have been so discharged, not from that cause, not from having broken down from separate imprisonment.

1650. Not in the convict prisons?—Not in the convict prisons in Ireland; I am not aware of any case of a prisoner's health having broken down, and of the prisoner's having been discharged in consequence.

1651. Do you know that some years ago, in consequence of the crowded state of the convict prisons, a large number were discharged from being invalided?—Yes; the effects of the famine, &c., had caused an accumulation of this kind of prisoners who were scrofulous, and it was formerly the case that prisoners were subjected to 12 months' and 15 and 18 months' separate imprisonment; but the maximum term is now nine months, and if a man wants one or two hours' exercise, and the medical officer considers it proper that he should have it, he has it; that is the regular system which now goes throughout the whole establishment.

1652. They were then neither fit for the hard description of labour on the public works nor the confinement, as then administered?—No.

1653. Do you consider that a large number of those so discharged, though unfit for imprisonment in confinement or for the harder labour at public works, would be fit for agricultural employment, which would be lighter and also be carried on in the open air?—There is no doubt of that. In fact, we have proved it, because we have made an invalid depôt in a healthy place, and these men, who would have been quite unfit for the heavy works, are now doing well, and their health is very much better.

1654. Is there any establishment in Ireland similar to the one at Dartmoor, where agricultural employment is carried on to a large extent?—There is not; we wished that it should be adopted with regard to Philipstown; but there has been a great difficulty in procuring land, the prices asked for land have been so exorbitant. It has, however, been the object to have an invalid prison there, and we hope yet to carry out agricultural employment.

1655. Then you would recommend such an establishment, if it could be carried out?—Certainly I should.

1656. Would the inclosing it with a sufficient wall for safety add considerably to the expense?—Yes; and I do not think it would be necessary so to inclose it.

1657. If an island could be obtained off the coast, fitted for agricultural employment, do you think that it would be desirable, with the assistance of such houses as you have recommended?—No; I think the more you have the prisoners in view the better. I do not like islands for prisoners. The more you see of them, either in their penal state, or in their reformed state, the better.

1658. The

1658. The only reason for suggesting an island was the expense of inclosure, but you think that the inclosure might be obviated?—I do not think an inclosure would be required if the prison officers do their duty.

1659. Do you think such an establishment could be made self-supporting?—Whilst the prisoners are in a penal state, decidedly not. In the state which I have described, the intermediate state, I have the strongest hopes that it will be nearly so; as far as able-bodied men are concerned, quite so, because we shall have less expense of supervision and less expense of prison construction.

1660. You have stated that a good many of the prisoners have broken down in health in Mountjoy Prison; are you satisfied with the ventilation of that prison at present?—The medical officer is quite satisfied with it. But the reason which I gave for the people breaking down in health was, that they were formerly there for a considerable period, sometimes 18 months, and so on. I do not find it the case now.

1661. Do you think that it is quite unconnected with the ventilation of the prison?—Yes; nothing of the sort occurs now, nor has done so since the formation of our Board.

1662. Whatever may be the difficulties as to getting rid of males, you would agree that they are much greater with regard to females?—The difficulty is greater, but not insuperable, in my opinion. I have the greatest hopes of success.

1663. Do you think, from the fact of the Irish female convicts not being so universally of the prostitute class, as in England, that the facility in getting rid of them would be greater?—I think it would be greater, and I have the greatest hopes of the reformation of large numbers of them.

1664. Mr. *S. Fitzgerald.*] In reference to what the effect may be of criminals being discharged with a considerable sum of money in their possession, a question has been put to you by the right honourable gentleman the Member for Oxfordshire, as to what, in your opinion, would be the effect upon the honest part of the population of seeing that a criminal at the end of his sentence comes out of prison in possession of a sum of money such as they never could hope to obtain; and you say that you do not think that upon the honest part of the population the effect would be injurious?—I am speaking with reference only to one portion, with reference to men from Bermuda, and with large earnings, such as 40*l.*; that is open, decidedly, to very serious objection.

1665. But with regard to the smaller amounts which you contemplate, you think it would not be injurious?—I think it would not be injurious under the circumstances I have mentioned.

1666. What do you think will be the effect upon the criminal population, those already engaged in the pursuit of crime, if they see men come out at the end of their sentences possessing even such a sum of money as you contemplate?—I think that those criminals know pretty well the ordeal that these men have to go through first, and therefore I should not apprehend any ill effects with regard to them; they know the ordeal, and that there must be good conduct before the men can even earn the money.

1667. But we know that every-day crimes are committed, even for the temptation of a few shillings, by those who are well aware of the penalty which they run the risk of?—Yes.

1668. Do not you think that persons who now commit crime, well knowing the risk which they run, for the sake of a few shillings, will not consider the sentence a very deterring one when they see that those who have undergone it come out of prison in the possession of a very considerable sum of money?—I think not, for this reason, that when they come out they say, "I was obliged to undergo a penal sentence before I could ever hope to get this money; and if I had not been well conducted, I should have come out without any money at all, after a long penal sentence." Therefore I do not think the effect would be that which is suggested in the question.

1669. Does not your experience lead you to the knowledge of this fact, that among the criminal population there is a very general belief that so long as they conduct themselves well in prison, and conform to prison rules, and so forth, they obtain a character which will enable them to procure those advantages?—Decidedly; that is why I would make a difference between men discharged from prison absolutely with large sums of money in their hands and others who go through the test, which I maintain is a test as to whether they are well conducted or not.

Capt. *W. Crofton.*

26 May 1856.

1670. Should you object to paying over the whole amount of the earnings of the prisoner to the credit of the Government who maintains him?—I prefer the other course, because it gives a man a chance. I am only speaking of men whom we assume to be reformed, as having passed through certain tests.

1671. You are speaking of 75 per cent. of your prisoners?—Yes. I say that it would be the means of giving them money to emigrate, and to get into a field where they could carry out their intentions of reformation; that is why I think it so desirable that they should have it; and I perfectly believe, that the more they understand about colonies, and the more the lectures in these institutions impart to them information as to which of the colonies they should go to, and what they should do there, the greater will be the desire of emigration: that is my inducement principally to give them their earnings.

1672. The inducement, in your view, must be a pecuniary one?—It must be a pecuniary one, because that will alone aid them to get to the colonies; that will be better than any other system of the Government taking a more prominent part in sending them to the colonies. A man upon my plan emigrates under a system which gives him the produce of his industry; he is a free agent, can take his own passage, or go where he likes.

1673. And you do not think that the prospect of regaining a character and obtaining employment here would be a sufficient inducement; but you think that it is necessary to add to that a pecuniary motive, and the ability, by the man's own conduct, to procure the pecuniary means of emigrating?—I am afraid the stimulus without it would be insufficient.

The Right Honourable Earl *Grey*, attending by permission of the House of Lords; Examined.

The Right Hon. Earl *Grey.*

1674. *Chairman.*] I believe your Lordship is acquainted with the subject of the inquiry in which this Committee are now engaged; we have had referred to us the provisions and the operation of the Act of 16 & 17 Vict., intituled, "An Act to substitute, in certain cases, other Punishment in lieu of Transportation"?—Yes.

1675. Did your Lordship fill the office of Secretary of State for the Colonies from July 1846 to the beginning of 1852?—Yes.

1676. What colonies were open for the reception of convicts from this country when you came into office in July 1846?—At that time, properly speaking, New South Wales was the only colony really open, because Mr. Gladstone had just come to a decision to suspend for a certain time the transportation to Van Diemen's Land; Bermuda and Gibraltar I do not consider as colonies receiving transported convicts, as they have eventually to be removed from those places.

1677. Subsequently, transportation to Van Diemen's Land was resumed?—It was.

1678. Were important changes made on your Lordship's accession to office, in the year 1846, in the system of carrying out sentences of transportation?—There was a very important change.

1679. Will you have the goodness to state to the Committee what that was?—The main principle of that change was to adopt as a rule the infliction of the strictly penal part of the sentence in this country, instead of in the colonies. It was considered that transportation virtually resolved itself into penal labour, under the control of the Crown, and subsequently passing a certain period at large, but under qualified restraint, in some colony. It appeared to us at that time that the great advantage of the colonies was for receiving convicts at the end of the more strictly penal part of the sentence; that the penal part of the sentence would be much better inflicted at home, because it would be more directly under the superintendence of the Government, and the punishment could be carried on at a smaller expense; but we thought that the colonies possessed advantages for receiving convicts after they were discharged from penal labour, which could not be found in this country. The system was therefore adopted of making convicts pass through a regular scale of punishment, which was to begin by a certain period, according to the sentence, of separate imprisonment, followed by associated labour on public works at home, and then tickets of leave in the colonies, and subsequently conditional pardons in the colonies.

1680. Was the ticket of leave introduced then for the first time?—No; it had been in operation many years in the penal colonies.

1681. What was the effect of this system, so long as your Lordship had an opportunity of observing it?—As far as I had an opportunity of observing it, it seemed to me to work remarkably well; there was no doubt that the hope of being discharged with a ticket of leave at the expiration of a certain period of their sentence from this country was a most powerful inducement with convicts to good conduct in the penal establishments at home; the hope of that relaxation of their punishment was, in fact, the main spring of the whole system of penal labour here, and it was the means by which the great improvement from the old state of the hulks had been mainly effected. It is also certain that convicts who had passed through a certain period of separate imprisonment, followed by associated labour on a good system of public works at home, were found, when they went to the colonies, most valuable labourers, and a very large proportion of them turned out, I believe, quite as good emigrants as the majority of those who go out voluntarily. I have seen many letters from employers in the colonies, giving a decided preference to the men who went out under these regulations over those sent out as free emigrants.

1682. I believe during the period we have spoken of, difficulties arose in the colonies themselves, which created an obstacle to the continuance of the practice of transportation?—Yes.

1683. Without going into detail here, I believe I am right in stating that the facts connected with that subject are detailed in your Lordship's work, intituled, "The Colonial Policy of Lord John Russell's Administration"?—They are.

1684. Do you remember the passing of the Act to which our attention is now particularly directed?—I remember the passing of that Act; I was present when the second reading was discussed in the House of Lords, but I had left London when it went through its farther stages.

1685. Did your Lordship take part in the discussion?—Yes, on the second reading in the House of Lords.

1686. One subject of our inquiry here, is into the provisions of this Act; are there any of them to which you have turned your attention with the view of suggesting any improvement in the Act?—There is one part of that Act to which I expressed a very strong objection at the time of the second reading in the House of Lords, and as to which, experience has confirmed the objection which I then expressed,—I mean that part of it which reduces the length of sentences of penal servitude as compared to the former sentences of transportation.

1687. That is the 4th section of the Act, I believe?—The 4th section of the Act. I stated at the time, and I still think that the abolition of the sentence of transportation was no reason at all for abridging the sentences, because under the former system it never was intended that men should remain in penal labour the whole time for which they were sentenced. By law, they might remain in penal labour either at home or in the colonies for that whole period. But, as I have said, it was the main instrument of an improved system of discipline, that the Crown should have the power of retaining convicts in custody for a much longer period than they were usually actually to be kept so. The Act made a mistake, as I think, in reducing the periods for which the Crown had the control of convicts to the time which practically they generally passed in custody, and the effect of this has been to deprive Government of the means which they before possessed of giving a stimulus to good conduct and to industry, by the prospect of an early relaxation of the sentence. I may say that as punishment formerly consisted, first, of penal labour, and ultimately of banishment, when you took away the banishment, instead of being a reason for diminishing the length of the sentence, it was rather a reason for increasing it; because, though it is very true that a large number of convicts in the penal establishments are very anxious to be sent to the colonies, that anxiety, so far as I believe, arises entirely from their great wish to be relieved from the severe punishment which they are undergoing in these establishments; but the banishment in itself is by no means an inconsiderable part of the punishment, which is proved by the fact that it was of every-day experience that the most pressing applications were made from the colonies for converting the conditional pardons which were usually given, into free pardons, which would enable persons to come home.

The Right Hon. Earl *Grey*.

26 May 1856.

1688. Does it appear to your Lordship that the graduation of the scale of sentences, as regards the term of penal servitude, is capable of improvement?—I think that a very simple improvement might be made in the Act, and I am convinced a very great one, by merely declaring that the sentences should be of the same length as they formerly were for transportation; and that the Crown should have the power, during the period of those sentences, either of retaining the convicts in penal establishments at home, or in those places out of the country where there are penal establishments, or else, if it thought fit, of discharging them with letters of licence or tickets of leave, either at home or abroad. If that regulation were adopted, it is clear that the Crown might give tickets of leave to as many convicts as room could be found for in the colonies, at an earlier period than they would get tickets of leave at home; and they would be very glad to accept it upon those conditions. But the main object of that change would be to provide for what I think a very serious danger of the present system, the ruin of the discipline and of the efficiency of our present penal establishments at home. Experience, both in this country and in every foreign country, proves that it is impossible to maintain the discipline of a penal establishment, and enforce industry on the part of convicts, by the mere fear of punishment. The hulks formerly in this country, the galleys in France, the establishments at Norfolk Island, Moreton Bay, and Port Macquarry, and all the establishments that have been tried upon this principle, have uniformly failed; convicts have become uniformly reckless, hardened, and impossible to be managed; most frightful murders of their keepers have occurred; and criminals, when they have been ultimately taken from establishments of this kind, have been found much worse than when they went into them. I believe, according to the principles of human nature, that must always be the case. Captain Maconochie recommended, on a consideration of this fact, that the punishment of convicts should always depend exclusively upon their own conduct. He proposed an elaborate system of determining the length of the sentences by certain marks which were to be earned, so that the convicts might know that every day's good conduct or bad conduct made a difference in the period of their punishment. That system was tried at Norfolk Island; it failed, and I think might have been expected to fail, because the principle, although substantially a good one, was perhaps carried too far, and not accompanied with the necessary severity of discipline. But the system adopted in 1847 and 1848 was a modification of that system. It still preserved the principle of making the length of the punishment depend mainly upon the conduct of the men, but with that there was a certain severity of punishment which could not under any circumstances be escaped. Now it was found that with the hope of being early discharged from prison, convicts did perform their tasks with singular industry and with good conduct; I do not know whether it has been brought before the attention of this Committee, but I remember when I was at Dartmoor, sawyer convicts were pointed out to me who were actually doing a greater amount of labour than free labourers employed at the same place, being entirely stimulated to this exertion by the hopes of being speedily discharged. Under the law as it now stands, the conduct of the convict has comparatively little influence upon the length of his punishment, and the consequence is, that you have not the same powerful motive brought to bear upon his mind is a stimulus to industry. And I find in the Report which has just been laid before Parliament of the Commissioners of Management of Convict Prisons for the last year, that the directors of convict prisons mention the fact that this change is already beginning to produce a very injurious effect upon the conduct of the men, though of course hitherto that has been to a very slight extent compared to what it will ultimately be, because the greater proportion of the convicts in these establishments still consists of persons who are sentenced under the old law, over whom therefore the Crown possesses complete power, and who may be expected to behave well. When the majority shall come to consist of persons sentenced under the Act of 1853, I believe that the managers of those prisons will be totally deprived of the necessary means of keeping up order and enforcing industry, and that the prisons may be expected to go back very much to the condition of the hulks of former days.

1689. Than which, I believe, nothing could very well be worse?—Nothing could possibly be worse.

1690. Is there any other section of the Act to which your Lordship thinks our attention might be drawn with the view of suggesting any alteration?—Perhaps it

it applies principally to this section; but I think that if you were to revert to the old length of sentences, it would be highly desirable that the Crown should be empowered, as a relaxation, to send, during the continuance of the sentence, any convict to a colony where there might be the means of receiving him as the holder of a ticket of leave. In that manner you would make sending to the colony, what it practically has been ever since 1847, a relaxation, as far as it goes, of the original sentence. I think it would be very desirable that if sentences were again to be passed of their former length, the judges should be made clearly to understand that those sentences were never intended to take effect except in cases of gross misconduct, after sentence, on the part of the convict; that they were the maximum of punishment which could be inflicted under the sentence, and not the punishment which should usually be inflicted, because I am afraid the judges have not been very accurately informed frequently of the manner in which the sentences which they have inflicted have been carried into effect, and from not knowing that, they have made some mistakes in the sentences they have passed, and in the remarks which they have addressed to convicts at the time of sentencing them.

1691. Does any suggestion of an alteration occur to your Lordship with regard to the section about tickets of leave, the ninth section? One of the witnesses has suggested that it might be advisable to alter the terms of the licence prescribed by this section, so as to make it a licence going beyond the United Kingdom and the Channel Islands. The words in the ninth section limit it to the United Kingdom and the Channel Islands. It has been suggested that it might be advantageous to have a power, at all events, to grant a licence for a larger range than that. I do not know whether your attention has been given to that point?—My attention has not been previously directed to the particular wording of the section; but I was quite aware that the licences to be at large were confined to the United Kingdom and the Channel Islands. I think it would be a very great improvement that that section should be altered, so that this licence might apply either to the United Kingdom, the Channel Islands, or to any part of Her Majesty's dominions to which the holders of these licences might be conveniently sent. I believe there are some places in addition to Western Australia to which convicts might be sent; and I would observe, that the effect of prolonging the periods of sentence, combined with an alteration of this clause, would have the advantage of enabling the Government to send to Western Australia as many convicts as it should be found capable of receiving. Since I have been in this room, I have had an opportunity of glancing over some of the evidence which has been previously taken by the Committee, and I observe that there were only 400 convicts sentenced to transportation in the year 1854, and that, deducting from that number those who were unfit, from physical or other reasons, to be sent to Western Australia, it did not leave as many as might be advantageously received there. That being the case, it seems very desirable that the law should be so modified that the Crown might always have the power of sending to Western Australia, or to other Colonies, as many convicts who had gone through the penal part of their sentence as could be conveniently sent there, since I believe that, as a general rule, the prospects of convicts ultimately reforming are very much greater in a colony than they ever can be at home.

1692. Your Lordship was understood to state just now that the law was imperative as to the time for which a convict was to be imprisoned; was that the meaning which your Lordship intended to convey?—I must have expressed myself inaccurately if I was so understood; I am quite aware that the law does not limit the constitutional power of the Crown to grant a pardon at any period; but what I meant was this, that when the ordinary sentence of seven years' transportation is reduced to four years, that period is so short, that the Crown has not an adequate means of holding out to the convict a relaxation of his sentence as a motive to good conduct, because if that sentence is to be reduced to one-half by good conduct, which was somewhere about the former rule, two years' penal servitude would obviously be a very inadequate punishment for many of the offences for which sentences of seven years' transportation were formerly passed; so that, practically, the law does deprive the Crown of that power which it possessed under the old state of the law.

1693. An opinion has been expressed here by more than one witness, that it would be desirable to make a great effort to resume the practice of transportation

The Right Hon. Earl *Grey*.

26 May 1856.

upon the scale on which it formerly existed. Is your Lordship of opinion that that would be practicable?—I doubt whether it would be practicable at present. My belief is, that if the system of penal discipline is properly managed in this country, and if those who have gone through that system are sent with proper advantages to the colonies, the present prejudice against receiving those men will, in many of the colonies, speedily abate; that the great value of their labour will be recognised, and that the means of receiving them will, therefore, be increased. I believe, also, that even in Western Australia, which is at present the only colony to which they can be sent, the means of receiving convicts may be made by a proper policy gradually to increase; because experience has proved that in the case both of Van Diemen's Land and of New South Wales their facilities for receiving convicts with advantage continued to increase as the settlements became larger and more wealthy, and as there were a greater number of free settlers capable of receiving them. When Lord Bathurst first began the system of encouraging settlers to take convicts into their service, the number that could be employed in New South Wales was very small; subsequently it became very great indeed, and at the time when the system of assignment was somewhat precipitately abolished, the demand for the services of convicts as assigned servants in New South Wales was infinitely beyond what the Government could supply, although transportation was at that time carried on upon a very large scale.

1694. That system of assignment, though attended with some disadvantages in your opinion, was attended with considerable advantages?—I think it was attended with considerable advantages, and with some great disadvantages. I have never doubted that it was proper to abolish it, but I think that the abolition was hastily accomplished, and without those precautions with which it should have been accompanied.

1695. Would it be practicable, in your judgment, to establish a new penal colony?—I have no doubt it would be practicable, if the country was prepared, to incur the very great expense of doing so. But though it might be practicable, I am very strongly persuaded that it would be highly inexpedient.

1696. Will you favour us shortly with the grounds upon which you arrive at that conclusion?—The grounds upon which I arrive at that conclusion are these: As I have said, I do not think the colonies by any means a good place for the strictly penal part of the sentence passed upon convicts. All experience is against them in that respect. You have much greater difficulty in getting trustworthy officers to watch over the convicts at a distance than at home. Abuses may go on for very long periods in those situations which you cannot discover. Therefore, so far as the mere strictly penal part of the sentence is concerned, my belief is, that convicts cannot be too closely under the immediate superintendence of the Government; and they are as completely separated from the rest of the population at Pentonville and at Portland as they could be at Norfolk Island. There is no communication whatever between the convicts in these establishments and the free population. But it is when they come out of these establishments, when they are to be once more their own masters, that the colonies possess so great a superiority to this country for receiving convicts. That superiority, however, entirely depends upon the demand for labour which exists in the colonies, and the facility of finding them employment under free masters. Now in an absolutely new colony no such means whatever would exist. If they are to be employed, it must be entirely by the Government. There is also no free society to neutralise the effects of the association of convicts: the difficulty and expense, therefore, of employing these men, and the moral disadvantages, would be very great indeed. On the other hand, in an existing colony (take Western Australia, for instance) there is no doubt that the demand for the labour of discharged convicts can, in a territory of that kind, be increased precisely in proportion to the amount of expenditure which the Government thinks fit to incur, and that expenditure would be infinitely less if you were to work upon the foundation of the existing establishment in Western Australia than if you were to found any new colony. If a settlement was to be formed, for instance, in the northern part of the continent of Australia, you would have everything to do. All the enormous expense of first landing men on a desolate shore would have to be incurred, and, after all, no employment would exist for convicts, except such as would be afforded either by the Government or by the settlers who might be tempted to go out. Now in Western Australia, if it is thought fit to incur the expense of carrying a road or a railroad down to King George's

George's Sound, where there is an excellent harbour, and in a very good situation for communicating with this country, if you by other public works extend the amount of territory available as a settlement, and offer advantages to settlers going out, no doubt you can extend very greatly the demand for convict labour; and you would do this much more readily than you could hope to do it in any new settlement. In the same manner, at the Falkland Islands and other places you might, by incurring a certain expenditure, afford employment for convicts; and all these places would present much greater advantages than any place that you could find in a country where there is no establishment already formed.

1697. The only other question with which I have to trouble your Lordship is, whether there is any further information or suggestion which you think useful to the Committee with reference to the subject of this inquiry, with which you would favour us?—The only further suggestion which I have to make is, that I think it is very desirable indeed to extend as far as possible the means of sending convicts abroad, and that with that view it would be well worth the while of the Government to make inquiry as to the possibility of opening one or more other existing colonies for the reception of convicts. There is one place where I certainly think a moderate number might be sent, I mean the Falkland Islands. It is well known that the population of those islands is at present exceedingly small; the establishment is so small, that it is scarcely worth while keeping it up on the present scale unless it is to be extended. But the Falkland Islands are most favourably situated for a place for all ships engaged in the trade, either with Australia or with any part of the western coast of South America, to call in their way home. The ships by calling there for refreshments, or for any repairs of which they may stand in need, save, according to the information given to me by a captain in the navy, at least from 10 days to a fortnight, as compared to the loss of time by going to Rio, which is now the only other harbour practically available either for repairs or for refreshment to ships coming home upon that long voyage. It is well known that the passage round Cape Horn is a very stormy one; ships unfortunately incur a great deal of damage, and it would be of great value to our commerce that there should be a station where repairs could be executed. During the time I was in office I had it seriously in contemplation to propose a dry dock in the Falkland Islands, where there is a most excellent harbour, and I believe a certain number of convicts with tickets of leave might be usefully employed in forming an establishment of that kind. Settlers would be attracted by the trade which would spring up, if this place were gradually to form a port of call on their return voyage for the large number of vessels now engaged in the trade with Australia, and the formation of such an establishment would be a great advantage to our commerce generally.

1698. Is there any other place with regard to which you think a similar suggestion might be made?—There is no other place which I should like to name, because the colonists are so jealous upon this subject: from the discussions of late years, it is so necessary to be cautious not to excite any apprehension among them, that I think it is much better not publicly to name any particular place. If inquiries were cautiously set on foot by the Government, and an offer was made to send a very limited number of persons to some particular places, in the first instance, as an experiment, to some of the colonies where the want of labour is the greatest, I should not despair that an opening might in that manner be found for some of our convicts, and when an opening was once made, it would have a tendency gradually to extend itself.

1699. Sir *J. Pakington.*] Your Lordship has stated that at the period when you became Secretary of State, in 1846, the system of transportation to Van Diemen's Land had been suspended by Mr. Gladstone?—Perhaps, more accurately speaking, the orders for suspending it had been given. I do not think that they had been actually carried into effect; but the decision to suspend it had been come to and declared.

1700. How soon afterwards was transportation to Van Diemen's Land resumed?—I have not the returns before me at this moment, but I think they would show that a small number were sent to Van Diemen's Land at no very great distance of time afterwards. I forget exactly in what year it was.

1701. Excepting that interval which arose from particular causes, I apprehend the system has been, from 1841 down to the termination of transportation, to send all transported convicts, even those for seven years, to the colonies?—Not

The Right Hon. Earl *Grey*.

26 May 1856.

quite uniformily; a certain number were still sent to the hulks at home, and also to Bermuda and Gibraltar, and brought home at the end of their sentence, until 1847 and 1848; the rule was intended to be adopted in 1847 and 1848, that every convict, without exception, sentenced to transportation, who was not physically unfit for it, should ultimately be sent out with a ticket of leave; but, as you are aware, the system was not sufficiently long in operation to allow that to tell. Transportation virtually ceased before many of the convicts who were sentenced after that period became eligible for tickets of leave.

1702. During the latter years of your Lordship's administration of the Colonial Department, were any seven years' convicts detained in England, excepting those who were considered physically unfit to go abroad?—Under the rules established in 1847 and 1848, no seven years' convicts sentenced after that time, or at least a very small number of seven years' convicts sentenced after that time, would have been eligible for tickets of leave before I went out of office, or, in fact, even before the system was altered in 1852 and 1853.

1703. If I remember rightly, it was shortly after your Lordship assumed the office of Secretary of State that that system was arranged between yourself and Sir George Grey, as Secretary of State for the Home Department, which was acted upon, as to the termination of transportation; I mean that system under which the severer part of the punishment was undergone at home, and the transportation portion was only carried into effect with tickets of leave?—Yes.

1704. How soon after your Lordship took office did that system actually commence?—I am afraid I cannot speak to that positively from recollection.

1705. I believe it was shortly?—It was at a very early period. I cannot exactly remember when it took effect, but it began at a very early period. At the same time the system was modified in its progress, because at first the plan was to send convicts abroad after they had passed the severer part of their sentence at home, as what were at that time called exiles, subject to no regulations or restraint whatever. Experience proved that the exiles did not behave so well upon the whole as men sent out with tickets of leave, and that the change was too sudden from the strict control to which they had been subject in penal establishments to being entirely their own masters in the colonies. The exiles were induced to stay about the towns, and to get habits of drinking. Resumed habits of drinking, of course, led again to offences; and it was discovered to be much better that they should be sent out with tickets of leave, by which the Government was enabled to send them at once to the more remote parts of the country, where they could obtain employment under the flock masters in a manner which did not expose them to the same temptations to which they would have been liable at Sydney or Melbourne.

1706. It was found, practically, that during the earlier periods of liberty some check was required?—It was found much better that some such check should be imposed.

1707. Is your Lordship of opinion that that principle would hold equally good whether the convict is released in a colony or in the mother country?—I was inclined to think so, and I believe it was partly upon a suggestion which I threw out on the second reading of this Bill in the House of Lords that that clause was subsequently introduced, for allowing them to be discharged in this country with licences to be at large.

1708. It has been explained to this Committee by the official witnesses who have been examined, that the present practice of the Government is to grant tickets of leave only to those persons who were under sentence of transportation when the Act of 1853 was passed, and that, except in special and exceptional cases, no tickets of leave would be granted to prisoners sentenced to penal servitude at home; may I ask your Lordship whether you do not think it would be better and more prudent to act still upon that system of tickets of leave, even with regard to that portion of our convicts who are sentenced to penal servitude at home?—I think there is, in the first place, some difficulty about it, from the short periods of the sentences of penal servitude. The whole efficiency of the ticket of leave depends upon there being a considerable portion of the sentence of the convict unexpired at the time he receives it; therefore, with these short sentences of four years, I doubt whether that would be as effective as it ought to be; but besides that, I think there is some reason to apprehend that, in the different circumstances of this country from those of the colonies, the fact of holding a licence or a ticket of leave may present some additional difficulties in the way

of a man who is discharged from a penal establishment, and who wishes to live honestly. There is a strong prejudice against persons in that situation in this country; they become necessarily more known than they would be if they were allowed freely to mix with the population, and I think it requires farther experience to prove whether it is desirable to use those tickets of leave or not. I should be sorry at once to abandon the experiment; but, on the other hand, I should be equally sorry to express a confident opinion that it would succeed. I think it requires farther trial.

1709. Are you aware of the statistics which have been given to this Committee, and which I think have also been stated in Parliament, with regard to the actual proportion of ticket-of-leave men up to this time who have come again within the grasp of the law?—I have seen it, and I think, upon the whole, it is tolerably favourable; but, as I have said before, I think that that by no means gives you anything like a fair view of what the ultimate working of the system will be. The new law has been in force less than three years, and those persons holding tickets of leave were all sentenced under the former law, when the Crown had greater power over them; and yet, notwithstanding that, I observe from some of the evidence which I have now looked over, that the proportion of revocation of licences has been gradually increasing as the system has gone on longer, and that now there is a much larger proportion of those who have received these licences. I find that Captain Whitty states, "It is singular to observe the regularity of increase which takes place in the per-centage each quarter on the aggregate number. There have been ten quarters now to the 31st of March since the Act came into operation, and the per-centage has increased at the rate very nearly of three-tenths per cent. in each quarter; at the latest period the per-centage of revocations of licences on public works was $3\frac{4}{10}$ths per cent., which on the ten quarters makes about three-tenths as the average of each quarter; and in tracing them up individually, it has gone on at that progress during the whole of the ten quarters; so that one might almost calculate from that, at any number of quarters in advance of the present time, what the per-centage of the revocations would be." Then there follows a table, which shows the progressive increase in the number of revocations.

1710. We have been led to suppose, by the evidence which we have received, that, on the general average of the three years which have elapsed, about 92 per cent. of those who have received licences have remained free from any further stain or imputation on their character; would not your Lordship consider that (making full allowance for what you have so justly stated as to the experiment being a short one) an encouraging fact with regard to the system of tickets of leave even at home?—I am inclined to think it is.

1711. Does it not lead you to this conclusion, that it would be wise and prudent, assuming that our convicts are to remain in this country, so to extend the sentences as to leave a margin within which tickets of leave might be granted, rather than setting the men at large at once, in this country?—I think that is of the very greatest importance. It is of importance not only with a view to having greater control over these men when they are discharged, but it is still more important, in order that a proper reformatory system may be applied to them while they are under punishment, so as to make them more likely to behave well when they are discharged. I look with the greatest apprehension at the consequences of the present system, which affords no adequate motive to good conduct to the men while they are in custody, and I am persuaded that when this law has been in force a little longer you will have a very dangerous and a very hardened class of men coming out of your penal establishments unless some change is made. I feel that so strongly, that even with regard to those who have been sentenced under the present law, I think it would be a less inconvenience to let them know that they might, by good conduct, obtain discharge from these establishments at the expiration of somewhere about half even their present short sentences, than to continue them in those establishments without any adequate motive to good conduct and to industry.

1712. You think it essential to the success of a system of penal servitude at home that the element of hope should be introduced?—I think it is absolutely essential, and that there is no other means of making use of that stimulus of hope to be compared, in efficiency or in safety, to that of shortening the sentence of the convict in proportion to his conduct; any other relaxation which you could give him, the hope of money which he is to receive upon his discharge, or a less

The Right Hon. Earl *Grey*.

26 May 1856.

severe system before his discharge; any of those advantages are comparatively very inefficient, and attended with various inconveniences; particularly accumulating his earnings, because the placing of a large sum of money in the hands of a convict at his discharge is a great temptation, and is attended with much inconvenience.

1713. Your Lordship has expressed an opinion this morning that the Act of 1853 ought to be so altered as to make the periods of penal servitude co-extensive with the periods of transportation for which respectively they have been substituted?—Yes.

1714. In expressing that opinion, am I right in presuming that you did not contemplate that in any case the convict should be kept in actual penal servitude at home for the whole of the period of sentence?—In no case but that of a man whose conduct was reckless and hardened during his imprisonment. I think it should be clearly understood that in case of such misconduct under punishment, the whole period would be passed in punishment. The efficiency of it depends upon the power of so continuing it.

1715. Let me take the shortest and by far the most common sentence of transportation, viz., seven years, and assume the case in either event, either of a sentence of seven years' transportation or of a sentence of seven years' penal servitude, and a misconducted man, I apprehend that even in the case of a misconducted man sentenced to seven years' transportation, he would have gone abroad for a period of that sentence?—Are you speaking of the old law?

1716. I am comparing the old law with the new; would not the sentence in that event on a misconducted man, of penal servitude carried out at home for seven years, be a very much severer sentence than the sentence of seven years' transportation, a portion at least of which would have been carried out in a colony under a ticket of leave?—But under the system of transportation as it latterly existed (I mean subsequently to 1847), a misconducted man never would have gone to the colonies; he would have passed his whole time in penal servitude here, because he would never have become eligible for a ticket of leave, and at the end of the seven years the Crown would have had no farther power over him. Practically, I believe those cases never would have arisen, because the general body of convicts are so anxious to obtain their tickets of leave, that they exercise a sort of police over each other, and one or two reckless and bad men can hardly set themselves against the whole body of those with whom they are working.

1717. Is your Lordship aware whether such a case has ever occurred as a seven years' transport having been detained, either for the whole or for as long a period of his sentence as the lapse of time has permitted, upon public works in this country?—There have been repeated cases under the old system of transportation in which a convict sentenced to transportation never got discharged from penal labour at all, because if his conduct was reckless in the colony, he incurred a fresh sentence there; his ticket of leave was recalled, and he got sent to the iron gang, which they had at one time, the road gang, or to Norfolk Island. There were repeated instances of men who never got discharged from penal labour either at home or abroad, and the penal labour in the colony was much more severe than the penal labour here. The condition of a convict at Norfolk Island was out of all comparison worse than the condition of any convict at Portland or Dartmoor.

1718. However, I understand that, in recommending that seven years' penal servitude should be the sentence of all convicts where seven years' transportation would have been formerly the sentence, your Lordship does not contemplate that the persons so sentenced should actually serve out seven years of labour on public works in this country?—I should revert precisely to the scale which was adopted in 1847 and 1848, which was framed with very great care. The periods at which men would obtain tickets of leave were there defined according to the degree of their good conduct. I should revert to that scale, only so far modifying it as to say, that when a ticket of leave could not be granted in the colony, it should be deferred a short time, in consideration of its being granted at home instead of in the colony. That was frequently done even under the system of 1847 and 1848, because in introducing the plan there were at first many difficulties to be encountered in finding sufficient means of disposing of all the convicts, and that was partly met by allowing some to be discharged at home after

rather

rather a longer period of associated labour than they would have had to qualify them for discharge in the colonies.

1719. I do not quite understand your Lordship's meaning in the expression which you used in your last answer, viz., that in the case of a man detained at home the ticket of leave should be deferred; will you be kind enough to explain that?—I would say this, that if you took three years or three-and-a-half years as the minimum period for the discharge with a ticket of leave of a man under a seven years' sentence in the colony, I think it would be very fair if he was not exposed to the pain of banishment, that he should not get his ticket of leave until after four years at home.

1720. And then that he should have a ticket of leave at home?—And that he should then have a ticket of leave at home. It would be regulated according to the means which you would have of disposing of the men abroad. I should send as large a proportion abroad as I could find the means of satisfactorily disposing of, but the rest I should discharge here, either with tickets of leave or simply with pardons in consequence of their conduct.

1721. Then I believe I rightly collect your Lordship's wishes and intentions to be, that hereafter we should revert as nearly as possible, in fact, to the system which has been prevailing up to the change of the law made in 1853, namely, that sentences should remain what they were; that a given period, not differing much from what it formerly was, should be passed in penal servitude on public works, and then that the men should serve out the remaining balance of their sentences in a colony if possible, and if not possible in a colony, that they should be allowed the benefit of tickets of leave at home?—That is precisely my meaning, with this addition, that I would put an end to the sentence of transportation altogether. I think there is great inconvenience in the present system while you have very limited means of transporting convicts; the Judges pass sentences upon a certain number of persons of transportation for 14 years or for life; the Judges have no means whatever of knowing what the capabilities of receiving these convicts are in the colony; therefore the inconvenience must be incurred, either that the Judges will pass a sentence which cannot be carried into effect in some instances, or they will run the risk of not passing a sentence of transportation upon a sufficient number of convicts to enable the Crown to meet the demand for convict labour which actually exists in the colony. If the sentences were in all cases so many years of penal labour, with the understanding that that period was to be reduced upon the principle which I have already described, then the Secretary of State for the Colonies, who has the best means of judging what the condition of the labour market in the colonies is, would be able to say annually what proportion of convicts could be received, and in that manner there would be no difficulty in making the utmost use which you can of those facilities of disposing of convicts which may exist from time to time.

1722. I believe practically inconvenience has arisen from the very cause to which your Lordship refers, viz., that the Judges being in ignorance of the state of the colonies, have not passed sentences of transportation in this country to such an extent as might well have been accommodated in the colony; but am I to understand your Lordship to express the opinion, that while you would send convicts abroad, so far as it is possible to accommodate them in distant colonies, you would still give up the sentence of transportation at home, and only pass in all cases sentences of penal servitude?—That is what I mean, considering the sending to the colony with a ticket of leave an indulgence for good conduct, which the convict would be very glad to obtain in preference to remaining in a penal establishment.

1723. I cannot doubt that your Lordship would concur in what I believe to be a most general opinion, viz., that looking to the administration of the Criminal Law, it is most essential that, so far as possible, sentences should be certain in their language; would not the system which you recommend be open to the objection of there being uncertainty of what the effect of the sentence would be?—It might be to a certain degree open to that objection, but I think that the system would be one less open to that objection than the present system, or than any other system, unless you abandon transportation altogether, because the sentence would in all cases be penal servitude for a given time, with a general rule, that that penal servitude was susceptible of mitigation, according to a well-understood and well-defined rule, that mitigation taking place either at home or in the colonies according to circumstances.

 1724. I understand

The Right Hon. Earl *Grey*.

26 May 1856.

1724. I understand your Lordship's suggestion to be, that in the court passing sentence, where the law awards penal servitude for crimes the sentence should always be penal servitude, and that then it should be a matter of complete uncertainty whether the persons so sentenced were to go to a distant colony, as it is now a matter of uncertainty whether they shall work out their sentences at Portland or Dartmoor on the one hand, or on the other hand at Bermuda or Gibraltar?—I think it should be matter of certainty that they would work out the penal part of their sentences at one of our great establishments, Portland, Bermuda, Gibraltar, or Dartmoor, and that if they conducted themselves well they should have a ticket of leave at the expiration of somewhere about half the original sentence. The only thing which would be uncertain would be, whether that ticket of leave would be granted a few months earlier in the colony, or a few months later at home.

1725. Would there not be this additional uncertainty, that, in the event of penal servitude at home, almost every man would return into society in this country; in the event of penal servitude in the colony, the case would be exactly reversed, and hardly any man would return to society in this country; would not this fact of itself establish the element of uncertainty, and affect the deterring results of sentences?—It would not, in the operation of the law, prevent them returning to society in this country. After the expiration of a man's sentence he might return. The probability is, that he would find it more advantageous for him to remain in the colony after having been there a certain length of time.

1726. But is it not true that the practical result would be such as I have described, founded upon past experience, which tells us that persons who once go abroad as transported convicts rarely do return?—I think it would; but I am not aware how that could with certainty be avoided, as I have said before, unless you could either provide means in the colony for receiving all convicts sentenced to penal servitude, or on the other hand, give up altogether the advantage of sending abroad a certain proportion, I conceive that it is practically impossible at this moment to provide facilities for receiving all these people abroad; and on the other hand, I think the advantage of disposing of a certain number of them is so great that it would be highly inexpedient to give up the advantage as regards that number.

1727. Looking to the moral effects produced at home, do you think the difficulty would be at all removed if our courts should in all cases pass sentences of transportation instead of penal servitude, and if then the prisoners should be at the disposal of the Crown, either to go abroad or to Bermuda, or to remain in England, as circumstances might require?—I think that there would be this objection to it. In the first place, I am afraid that for a considerable time the majority could not be sent abroad, and that the sentence would be very different from what it implied. If they are sentenced to penal servitude, the very term implies that it places them at the disposal of the Crown, to be dealt with as the Crown may think fit, and the sentence inflicted would correspond with the sentence pronounced by the Court. But further than that, I think it is highly desirable that transportation as a removal from this country should become actually a mitigation of the sentence, and not a serious part of the punishment, and that it should appear upon the face of the sentence to be what it really was in fact. Practically, it is not a part of the punishment, but a mitigation of the punishment, and therefore the sentence should not imply that that which was a mitigation was necessary to be done.

1728. I think I may say that the theory upon which the Act of Parliament of 1853 was founded, and the theory upon which the criminal law of this country has been since administered, has been, that the sentence of transportation being only for long periods, has been, regarded as a step in the gradation of punishments, standing in severity between the capital punishment of death and the punishment of penal servitude; I apprehend that your Lordship's wish and intention is exactly to reverse that theory, and that hereafter the fact of being sent abroad should be regarded rather as a mitigation and a reward for good conduct, than as an aggravation of the punishment?—I think so; and I think so for this reason: for punishment I consider the colonies particularly ill adapted; they are very well for receiving convicts who are to return into society, but they are not well adapted for receiving those who are still under punishment. Take the case of a man who for an aggravated manslaughter, approaching as nearly as

as possible to murder, is sentenced to transportation for life; being also a man of general bad character, and of an age or a state of health which renders him unlikely to be a useful labourer in the colony; it would be extremely unjust to the colony that that man should at any period of his sentence be sent abroad; however he is to be dealt with, I think he should be in the hands of the Crown at home; he could never be of any use to the colony, and unless convicts are to be of use, I do not think that we ought to send them there; a man of that kind might properly be kept for a very prolonged period in a penal establishment, and then some mode of disposing of him at home might be contrived.

1729. In short, you contemplate that the severity of punishment shall be entirely at home, and that the worse the conduct of the criminal, the longer the detention at home shall be?—Yes.

1730. I presume that in suggesting, as you have done, to make the periods of penal servitude co-extensive with the previous periods of transportation, you would recommend that that change should be extended to all the various periods of punishment?—Certainly.

1731. Your Lordship has, no doubt, remarked the very extraordinary peculiarity in the Act of 1853, that while the Act contemplates penal servitude for life, it does not give the power of passing a more severe sentence short of life than 10 years; is your Lordship of opinion, following out the opinion which you have just expressed, that some intermediate periods of penal servitude should be in the power of the courts between 10 years and life, for aggravated cases of crime?—I think so; I believe that the provision to which you have called my attention in the existing Act is to be explained in this manner: that the framers of the Act took exactly the view I have just taken in a former answer, with regard to the impropriety of transporting at all those persons who had committed the most aggravated crimes, barely escaping the infliction of a capital sentence; it was conceived that in that case the convicts ought not to be sent to the colonies, but ought to be under punishment for life at home; but it was supposed that others who were subject to a more severe sentence than 10 years' penal servitude, would be sentenced to 14 or 21 years' transportation under the old system.

1732. How would your Lordship propose to deal with all that class of cases to which, now that the sentence of death is so rare, the severest punishments are awarded, namely, transportation for life, and transportation for various periods above 15 years; what, in your opinion, would be the best mode hereafter, under the system which you are now recommending, of carrying out the law with respect to such cases?—I should, with respect to those cases, revert to the system of 1847 and 1848. The convicts would pass, if I remember rightly, according to that system, a period of from 8 to 10 years in separate imprisonment, and associated labour together, and at the end of that period they would become eligible for tickets of leave. I think that they either must have tickets of leave in the colonies, or must have some establishment formed for them at home. I am by no means certain that for those who are incapable of labour there ought not to be some establishment formed at home, where men of that sort might be kept for the remainder of their lives and never allowed to return to society; I think that is possible.

1733. You do contemplate, then, as the severest punishment short of death, that there should be what I may call civil death, by incarcerating men for life in this country?—I think those men should be sentenced to penal servitude for life, but it probably would be expedient that some means should be contrived in order that they might not become perfectly reckless, by which, after a certain period, they might be placed in a situation very much better than that of the associated labourers on public works.

1734. Mr. *Adderley*.] The proposition which your Lordship has just made is, that all sentences of transportation should cease, but that there should be various sentences of penal servitude, which it should be in the power of the Crown to relax, either by a licence to go to a colony, or by a licence to remain at home?—Precisely.

1735. In what way can any rule be formed as to who should have a licence to go to a colony and who should have a licence to remain at home, except from the mere accidental circumstances of the home or colonial labour market?—There would no doubt be considerable difficulty in any rule of that kind; it could only be done by the Secretary of State from time to time making a regu-

The Right Hon. Earl *Grey*.

26 May 1856.

lation, varying the number which should be sent to the colony; that is the course which I should propose following.

1736. It seems that that would introduce a new element of uncertainty, and if the licence to go to a colony is considered as a boon, might it not produce great disappointment in the minds of prisoners, who by good conduct might suppose that they had earned that boon?—I think not. The form would be this; a man for certain conduct would be entitled to discharge in a colony, say at the end of three years and a half, or at home in four years, one being considered equivalent to the other; which of those two indulgences was granted would depend upon the facilities at the moment of the one or the other. I may just add, that practically there would not, I think, be so much difficulty in making the distinction as might be supposed, because there are many convicts who are anxious to be discharged at home, and as to whom some person at home will undertake to be answerable for providing them with employment; there are others, on the contrary, who have no such means of obtaining employment at home, and who are very anxious to be sent to the colonies, and who may have a knowledge of some business or trade which particularly fits them for emigration, and these men would be sent to the colonies. So that I do not think, practically, there would be any very great difficulty in regulating which should go to the colonies and which should not.

1737. Adopting a plan which would send so many more discharged prisoners to the colonies than are sent under the existing Act, does your Lordship think that there are settled colonies sufficient, which would be willing to receive such a number?—I very much doubt whether there are at present, but, as I have said, I think a market for the labour will gradually extend itself in Western Australia. There is a very large territory in connexion with that colony, which I believe to be available for settlement; as roads are found, and as settlers go there, each of those settlers will probably be able to employ a certain number of convicts; and more than that, we shall find, as we found in New South Wales, that many of the most industrious and frugal of the convicts will themselves speedily rise into the class of employers, and when wages are so high, as they are now in Western Australia, if a man is discharged and gets a piece of land, he will in a very short time accumulate money; he may wish to extend his operations, and he will be able to find employment for one or two persons to help him, and every additional person who is thus established upon the land brings into the colony some trader to help to supply him; the circle is continually expanding, and the market for labour becoming greater.

1738. Your Lordship will excuse my asking you this question: You stated that certain letters from the colonies had expressed a preference for convicts over free emigrants. I hardly suppose that there are any colonies where they abstractedly would prefer the reception of convicts to being peopled with free emigrants?—You must remember that the free emigrants from this country are necessarily, from the very fact of their being emigrants, not the steadiest or the best of our working population. The steadiest and the best men do not like to leave their homes and relations; they get employment at home, and they do not go. A very large majority of free labourers in the colonies, I am sorry to say, get very low-priced spirits, and with the high wages which they receive, the change from their former life is too great for them, and the habits of drunkenness which they adopt in consequence, are very bad. We have only to look at the return of the quantity of spirits consumed in the Australian colonies, in proportion to the population, to be convinced what frightful habits of drunkenness must prevail. The convicts, under the system which was lately adopted, in the first place felt very severely the effects of misconduct. In the next, they had been subjected for a considerable time to a system calculated to have a powerful effect upon their minds, and also to teach them habits of regular industry and useful labour. The consequence was, that many of the principal flock-masters and employers of labour (I have seen letters from them myself), said that they found far better servants in these men sent with tickets of leave, than in the free emigrants that they could get. I do not mean to say that the society of any one colony would at this moment prefer convicts to free emigrants. I think quite the contrary; I think the effect of the discussions at home was to wound the very susceptible vanity of the colonists, and to alter their feeling with regard to convict labour; their passions much more than their reason were excited, and they opposed it; but it is not 20 years since the colonists, both of Van Diemen's

Land

Land and of New South Wales, resented as a positive breach of faith any attempt to reduce the number of convicts who were sent under the assignment system.

The Right Hon. Earl *Grey*.

26 May 1856.

1739. Does your Lordship think that as our colonies are placed in a new position now, under free constitutions, they are much less likely than they were at the time to which your Lordship alludes, to consent again to the reception of convicts?—If it was done judiciously, and if a certain number of men with tickets of leave were sent out only to persons who engaged to employ them, and if the Government made some pecuniary concession, to render it worth the while of the colonists to receive these people; for instance, if 5 *l.* a year was paid from the revenue of this country for every convict so taken by the colonists, I believe that in the course of a very few years the feeling would alter. I do not expect that it would take place suddenly, but I think that the utility of these men would be found so great, and that the scarcity of labour at the same time is so great in many of these colonies, that I believe gradually the feeling would entirely change, and that there would be a much better field for their employment than exists at this moment.

1740. Your Lordship suggested, that in order to open a new colony for the reception of our convicts, there must be a very large Government expenditure; does not your Lordship think that this country would make such an expenditure at a very great risk, if a free Parliament might at any moment, in that colony, cease to give its consent, even after the system had commenced?—I have said that a very large expenditure would be necessary to establish a new penal colony, or to send a very greatly increased number of convicts to one place. But I believe that a moderate number of convicts might be sent to any existing colony with scarcely any expense at all, beyond some concession in proportion to the number of persons so sent; not sending them to be there employed in penal labour, but sending them in the position of holders of tickets of leave.

1741. Has your Lordship considered the advisability of altering the 9th clause of the Penal Servitude Act, which enables Her Majesty to grant licences to be at large, so that the licence might run, instead of being a licence to be at large in the United Kingdom and the Channel Islands, as a licence to be at large anywhere except in the United Kingdom?—That is, in fact, to substitute for the present system the system of what is called a conditional pardon. The difficulty of that is, how is it to be enforced? You cannot turn a man out of prison, and say to him, "If you are found in this country after a certain length of time you will be punished," because the man would have no means of getting out of it. If you furnish him with money, he has the temptation of going to a public house and spending the money, instead of going out of the country. If you give the convicts the money, and release them in a foreign country, or in any colony that you may send them to, it is impracticable. Therefore I do not think you could, with any advantage, substitute giving licences in the form prescribed.

1742. Would not the funds with which the discharged prisoners are now furnished in the form of gratuities, by which they are enabled to move to places where employment offers within the kingdom, be equally available to enable the men to emigrate out of the kingdom?—I think not, because it is perfectly certain that the moment a system of that kind was adopted, you would have the existing laws, which are tolerably severe in the United States, made more severe; shipowners are at this moment liable to a severe penalty if they bring persons who have been convicts. If it was known that the British Government discharged convicts here, and only gave them their gratuity when they had taken a passage to the United States, that law would be rendered still more stringent, and would effectually prevent it. If, on the contrary, they were sent to our own colonies, it would be only sending the convicts under a system which experience has shown to be much more injurious to the convicts, and much less advantageous than sending them with tickets of leave. Therefore, the probability is, that the resistance to receiving them in that form would be at least as great if not greater than to receiving them with tickets of leave.

1743. Has your Lordship considered the possibility of enabling them to emigrate through the means of societies at the ports of debarkation, by which discharged prisoners might be enabled through the means of private individuals to emigrate out of this country, the Government not knowing where?—I think if that is done to any extent, there will be precisely the same objection in foreign countries and in the colonies to an indirect mode of that sort of getting rid of our

The Right Hon. Earl *Grey*.

26 May 1856.

our convicts at their expense as to doing it directly, and perhaps a greater objection.

1744. Will your Lordship tell us upon what terms you suggest that discharged prisoners sent out with licences should be received in the colonies; whether as free men, or under any conditions?—I think the regulations which were in force formerly with regard to ticket-of-leave holders, were upon the whole the best which could be established; those regulations left them almost entirely with the advantages of free men, but with certain exceptions. They were required to pay a part of the expense of their own passage. I do not know that it is essential to enforce that, but what was really important was the power of compelling them at once to leave the towns, and to go and reside in the more rural parts where their labour was most required, and where there was the least temptation for them to relapse into a life of crime.

1745. Would such a plan necessitate the Government establishing depôts for the reception of such convicts on their arrival?—In Western Australia there is such a depôt. If the plan was established in any new colony, I think the safest way of beginning it would be, that no convicts should be sent except to persons who had applied to have convict servants, and that they should be forwarded direct to the masters who had so applied for them. I am convinced that if it was known that, free of expense, a well-trained convict servant might be sent to a master who applied for him, very speedily those applications would become very numerous.

1746. Your Lordship seemed to think that, by Government expenditure, small colonies might be adapted sufficiently to be recipients of convicts; would there not be very great danger in any action or expenditure of the Government establishing a colony; is not the experience of Western Australia against the success of such an artificial development of a new settlement?—I do not think so; I think it is only four or five years that the system has been in active operation in Western Australia, and in that time it has had a great disadvantage to contend with in the discovery of gold in another part of that continent, which has naturally carried off a good many of the former settlers, and made it much more difficult to retain persons who are sent there. But we have the experience of what was done in New South Wales and Van Diemen's Land formerly; we know how very speedily the policy which was acted upon there was successful, and how very great a demand for labour was created. When Lord Bathurst first began allowing convicts to be given to the settlers as assigned servants, it was necessary to bribe them to take them, by allowing a remission of quit-rent in proportion to the number of convicts employed; but in a very short time, instead of this, there was the most eager competition for their services. If the policy is properly acted upon, I do not see why it should not be completed; but at the same time I certainly very much doubt the policy of forming a new penal establishment anywhere, except at the one point I have mentioned, the Falkland Islands, where, for other reasons, I think it is highly desirable for our commerce that there should be the means of repairing ships which may wish to put in there, and a moderate number of convicts, I believe, would afford the cheapest means of forming such an establishment.

1747. With regard to the condition of the Falkland Islands, do you think that that country can be developed as a settled country, or do you not think that such a depôt of convicts there as you suggest will be very likely to become a mere place of Government employment, or possibly a place more like Norfolk Island?—I do not think it would at all. In the first place, I think a great many of the convicts from the Falkland Islands would be dispersed to other parts of the world in the manner contemplated by one of your former questions, but in a less objectionable way, because there would be no control over them; they would not be prevented from going away, and I believe they would find their way to other parts of the world. But I also think that the advantages of the Falkland Islands, as a place of call for the very numerous ships which now come home past Cape Horn, would be such that there would gradually spring up some considerable amount of trade there in preparing for the reception of these ships, and making repairs when they came. Those islands possess some very considerable advantages. No doubt they cannot grow corn, but they produce stock very advantageously. Cattle may be fed there, and garden vegetables can be produced there, and there are some of the finest harbours in the world.

1748. Sir *J. Pakington.*] Having regard to the opinions which you have expressed

expressed as to the Falkland Islands, have you at all contemplated the number of convicts which might be received there?—I am not able to make that calculation. The way in which it should be done would be to enter into a contract with some of the great contractors in this country to construct a dock, and then I should send out as many labourers as they thought desirable.

1749. I apprehend that your opinion is, that it would be impossible for this country to look to the Falkland Islands as affording any permanent demand for convicts beyond what the construction of certain works of that kind might require?—I believe that when those works were established, it would become a trading place of some importance, if there were a dock, and facilities for merchant ships being refitted when they called there; the labourers required for that purpose would want supplies; a certain number of tradesmen would be established to supply them; there would be a certain quantity of cultivation carried on for the purpose, and I dare say that a moderate number of convicts might advantageously be sent there.

1750. Mr. *M. Milnes.*] Has the attention of your Lordship ever been directed to the project of sending convicts to the North American colonies?—I do not think that that is at all likely to answer. If the Legislatures of those colonies were to apply for them it would be a different thing. I do not think any such application is likely to be made, and without it I do not think it is desirable to send them.

1751. Are there not very large tracts of improvable land there, and is there not a great deficiency of labour, and are they not colonies which would be liable to none of the objections which the southern colonies would be liable to?—I doubt whether there are any such situations.

1752. An objection was made to your Lordship's proposal, on the ground that it would diminish the certainty of punishment; but is it possible to combine an entire certainty of punishment with the principle of a gradual amelioration of the condition of the convict in consequence of his good behaviour?—I do not think it is, and I never have believed that certainty so understood is desirable. I think that certainty as to what may be the actual lot of the convict is not wanted. What you want is a certainty that according to his conduct he will be better or worse, and that would be provided for by such a system as I have mentioned.

1753. Am I to understand that it is the opinion of your Lordship that "transportation" has become a word so indeterminate in its signification that it would be better that it should be at once given up?—I think so. I think the word "transportation" had better be abandoned altogether, and a new sentence of penal servitude substituted in all cases, retaining transportation practically for that for which I believe it is only desirable, namely, the means of disposing of convicts after they have gone through the strictly penal part of their sentence to as great an extent as you can.

1754. Does your Lordship see in the present circumstances of any of our Australian colonies circumstances which induce you to think that there is likely to be a change of public opinion on that subject?—I believe that at this moment at Moreton Bay, if that district obtains what I think it is fairly entitled to, separation from New South Wales, there is almost an equal division of opinion in favour of having convicts or not, and that the probability is, that as the want of labour becomes greater, the illimitable plains which extend northwards, and which are applicable to sheep, will create a desire on the part of the inhabitants of that district to have convicts, provided that they have only well-trained convicts, likely to behave well in the manner I have described.

1755. Does not your Lordship think that if the modified system of transportation which has been adapted to Western Australia goes on being so successful as it has hitherto been in developing that colony, that system will have a very favourable effect upon public opinion in other parts of Australia?—I think it will progressively have very great effect, especially if either a road or a railroad can be opened from Perth to King George's Sound, which is a thing most desirable at this moment.

1756. You think that if it became known through the whole of that immense district that a great improvement of that kind had been effected by means of convict labour, that fact would be of use in modifying public opinion?—I think so, and when the controversy has been somewhat forgotten; I believe that the great clamour against convicts was created by two circumstances; first, the unfortunate

The Right Hon. Earl *Grey*.

26 May 1856.

unfortunate sending of such vast numbers to Van Diemen's Land under a very imperfect system of regulation, which led to very great evils, and next the language which was held in this country by which the colonists were led to believe that they were regarded as an inferior class from their receiving convicts.

1757. Does your Lordship believe that up to the time of that agitation there had been a party in those colonies who believed that the introduction of convicts was injurious to a colonial population?—I believe there had been for a very considerable period a certain number of persons in the colony who objected to the reception of convicts; but the loudest expression of opinion was quite the other way up to a comparatively recent period. In the years 1840 and 1841 putting an end to the system of assignment was talked of very much in the same language as the West Indians talked of the abolition of slavery in 1833; as the greatest act of injustice to the masters in the colonies.

1758. May not that, in some degree, be attributed to the circumstance that the methods of transportation which were used after the principle of assignment was abolished were not so immediately advantageous to the colonists as the system of assignment itself?—I think so, and I think the complaint was a just one; I think the manner in which transportation was carried on immediately after the system of assignment was abolished, made it a most serious evil to the colony.

1759. The system of assignment carried along with it certain positive material interests, which afterwards were not so evident?—Not only that, but at the very same time, when that assignment was stopped and the number of convicts that was sent was very largely increased, unfortunately, by a short-sighted economy, the means of properly supporting the convicts and of employing them were cut off. A very inadequate staff was sent out for the management of the increased number of convicts who were kept immediately under the charge of the public, and at the same time the territorial revenue of Van Diemen's Land was taken away to diminish part of the expenses of the Home Government, which thus deprived the Colonial Government of the only fund by which it could have opened new portions of the colony for settlement, and extended the demand for labour. It was the effect of these measures which led to the frightful state of things that existed in Van Diemen's Land in 1846.

1760. Sir *J. Pakington*.] You have stated an opinion that Moreton Bay would be ready, in all probability, to take some of our convicts, in the event of their separation from New South Wales; do you think that, even in the event of that separation, we could send convicts to Moreton Bay, consistently with good faith to New South Wales?—I think that New South Wales would have no sort of right to object to Moreton Bay, considering its own interest in that matter. New South Wales is itself the creation of the immense expenditure of this country for convict purposes, and I do not see, that now it has been made a very wealthy and a very prosperous community by the expenditure of this country for that purpose, it can object to its neighbour having a similar prosperity by a similar expenditure.

1761. Whatever may be the abstract justice of the case, does not your Lordship think that any attempt in any shape to send convicts to Moreton Bay would lead to great dissatisfaction in New South Wales?—I think it might very likely lead to great dissatisfaction; but I am not of opinion that that would be of any serious consequence. At the same time, I do not apprehend that convicts would be immediately applied for at Moreton Bay. I do not say that opinion at this moment is in such a state that even, with a separate Legislature, they would at once apply for them; I think it is only by degrees, and when the advantages derived from the system are seen, as in Western Australia, and the deficiency of free labour is felt, that any application is likely to be made from Moreton Bay.

1762. Mr. *K. Seymer*.] Supposing it were found to be impossible to dispose of our convicts in the colonies, would your Lordship still recommend that modification of sentences which you have suggested?—I think it would be still more important under those circumstances, because it would be still more important to have such a system which would enable you to bring to bear upon your penal establishments in this country those motives which are necessary for the establishment of good discipline, and the enforcement of industry; so that the convicts discharged from those establishments might be likely to fall back into their places among the ordinary working population.

1763. In

1763. In that case, all the convicts would be discharged with their tickets of leave in this country?—Either with tickets of leave, or at the expiration of their sentences, as the case might be.

1764. At the time when your Lordship was at the head of the Colonial Office, did the office possess the means of ascertaining what proportion of convicts transported returned to this country at the end of their sentence?—I do not think that any accurate information upon that subject was ever obtained, or could be obtained; it was a very small proportion, certainly.

1765. Your Lordship stated, I think, that you frequently received application from the colony for free pardons?—Very frequently, indeed.

1766. Was that with a view to the convict's returning to this country?—Yes; but those applications, I think, were principally from persons not quite of the working classes; I think the high wages were so great a temptation for the convicts of the working classes to remain there, that they were seldom anxious to come back, unless they had relations at home; but in the case of those who were in rather a superior class of life, those who had been clerks, or anything above that, there was not the same demand for their labour in the colonies, and not the same facility for their settling themselves in life there, and they very often had friends here whom they were anxious to come back to; and I think it was chiefly from that class that the applications for free pardons were made.

1767. Practically speaking, did the system of transportation, as a rule, come to this, that criminals who were transported did not return to this country?—Of the criminals who were transported, the vast majority remained there.

1768. And under the proposed system, which I alluded to in my first question, all criminals would be eventually discharged in this country?—Certainly.

1769. Has your Lordship considered at all the probable effect of that upon the general criminality of the country?—I have always had the greatest possible apprehension as to the effects of it. I know how very serious the consequence of the discharge at home of convicts has been in other countries in Europe, and even with the best system that can be adopted in this country, I should be very apprehensive of the accumulation of large numbers of convicts here; that is the reason why I think it is so highly desirable that every effort should be made to extend the means of sending them abroad.

1770. Mr. *Massey*.] Some of the witnesses before this Committee, who are adverse even to the partial resumption of the system of transportation, have expressed the opinion that the demand for convict labour which still exists in Western Australia, arises only from a desire to promote Government expenditure; does your Lordship concur in that opinion, or have you the means of forming an opinion upon that subject?—I have known nothing of Western Australia during the last three or four years except from the papers which have been laid before Parliament. I should gather from those that there is still a considerable want of labour there, and that they wish convicts to be sent, not only for the sake of the expenditure, but also for the sake of the labour. At the same time it is undoubtedly true that in Western Australia, as nearer home, Government expenditure is very popular with those who get the advantages of it.

1771. I understand your Lordship to say, that in resuming transportation in future you would only send convicts to the colonies in cases where there was a specific demand for them?—Except in Western Australia, where you do possess a very complete depôt, which has been formed at a very large expense, I think that that would be a prudent rule; but where you have the advantage of that depôt I think you might safely send to Western Australia a certain number, taking care not to overdo it.

1772. Is your Lordship of opinion that the repugnance which now exists to the reception of convicts in those colonies, which are at present closed against convicts, arises not so much from a dislike to the people themselves as from the mismanagement, so to speak, of the mode in which they were transported there?—I think it was originally created by that mismanagement; it certainly did not exist 20 years ago.

1773. Your Lordship reminded us that a complaint was made of something like a breach of faith on the part of this Government in withdrawing convicts some years ago from Van Diemen's Land?—More from New South Wales.

1774. Is the condition of that colony essentially changed since that complaint was made?—At the time that complaint was made, it was founded very much upon putting an end to the system of assignment. In fact, the system of assign-

The Right Hon. Earl *Grey*.

26 May 1856.

ment was an immense pecuniary advantage to the employers who received the labourers, and those who lost that advantage complained very loudly. The circumstances of the colony are to a certain extent changed since. The scarcity of labour is not what it was, but I think that gold has taken more people there than perhaps it has taken away from other employments.

1775. Sir *J. Pakington.*] Are you of opinion that if all our convicts hitherto transported were to be punished in this country, and ultimately set at large in this country, they would constitute any very formidable addition to the convict population always at large here?—I know that in point of mere numbers the addition would not be so very large; but then I cannot help thinking that all the worst offences are included among the sentences of transportation, and you would have a certain number of men of a very dangerous character, who would have a bad influence upon the rest of our convicts in this country, and whose presence would be injurious.

1776. Is it not the fact that in point of numbers they would not add more than about 3 per cent. to the amount of convict population at large in this country?—I donot remember the per-centage exactly; I know it is not a very large per-centage.

1777. Do you not think that amongst that population so at large, there is a very large proportion of characters quite as desperate and quite as hopeless as would be the case with a considerable number of transports?—That might be the case, particularly if the reformatory system was properly enforced at home; and I am willing to hope that, under a proper system, at home the inconveniences might be less serious than I have always anticipated; at the same time I always have felt that it is a very serious danger.

1778. Are you of opinion that the public alarm upon that subject is at all exaggerated?—I think, with respect to the holders of tickets of leave, it has been very much exaggerated. Whether the system of tickets of leave is right or wrong, I cannot conceive that there is so much difference between ticket-of-leave holders and those men discharged at the completion of their sentences, as to make the former a much more dangerous class. I think that is impossible.

# APPENDIX.

## Appendix, No. 1.



PAPERS delivered in by *Horatio Waddington*, Esq., 17 April 1856.

(A.)

GREAT BRITAIN.

NUMBER of CONVICTS Transported from 1848 to 1852, inclusive.

| | MALES. | FEMALES. | TOTAL. |
|---|---|---|---|
| 1848 | 1,407 | 490 | 1,897 |
| 1849 | 1,243 | 377 | 1,620 |
| 1850 | 2,105 | 360 | 2,465 |
| 1851 | 2,008 | 432 | 2,440 |
| 1852 | 2,102 | 439 | 2,541 |
| TOTAL | 8,865 | 2,098 | 10,963 |

NUMBER of Persons Sentenced to Transportation during the same Period.

| | |
|---|---|
| 1848 | 3,601 |
| 1849 | 3,218 |
| 1850 | 3,176 |
| 1851 | 3,338 |
| 1852 | 2,896 |
| TOTAL | 16,229 |

(B.)

GREAT BRITAIN.

| | MALES. | FEMALES. | TOTAL. |
|---|---|---|---|
| Number of Convicts under Sentence of Transportation in Confinement on the 30th September 1853 | 9,370 | 480 | 9,850 |
| Transported (Males 1,320 / Females - / Total 1,320) | | | |
| Licensed (Males 4,873 / Females 279 / Total 5,152) | | | |
| Died (Males 250 / Females 20 / Total 270) | | | |
| | 6,443 | 299 | 6,742 |
| | 2,927 | 181 | 3,108 |
| Licenses Revoked | 173 | 6 | 179 |
| Remaining in Confinement | 3,100 | 187 | 3,287 |

(C.)

RETURN as to Orders of License.

| | MALES. | | | | | | | FEMALES. | | | | | | | Total of Males and Females whose Licenses have been Revoked. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | OFFENCES. | | | | | | | OFFENCES. | | | | |
| | English. | Scotch. | Total. | Felony. | Vagrancy. | Assault. | Offences against the Game Laws. | English. | Scotch. | Total. | Felony. | Vagrancy. | Assault. | Offences against the Game Laws. | |
| From the 10th October 1853 to the 20th February 1855, inclusive - - - | 22 | 8 | 30 | 17 | 10 | 3 | – | 1 | – | 1 | – | 1 | – | – | 31 |
| From the 21st February 1855 to the 11th March 1856, inclusive - - - | 140 | 3 | 143 | 48 | 60 | 26 | 9 | 5 | – | 5 | 2 | 3 | – | – | 148 |
| Totals - - - | 162 | 11 | 173 | 65 | 70 | 29 | 9 | 6 | – | 6 | 2 | 4 | – | – | 179 |

| Number reported for Misconduct. | | | | | Number Acquitted out of 447 reported. | | | | | Number of Convicts released on License. | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| MALES. | | FEMALES. | | | MALES. | | FEMALES. | | | MALES. | | | FEMALES | | | Total of Males and Females. | |
| English. | Scotch. | English. | Scotch. | Total. | English. | Scotch. | English. | Scotch. | Total. | English. | Scotch. | Total. | English. | Scotch. | Total. | | |
| 39 | 16 | 1 | – | 56 | 4 | – | – | – | 4 | 2,205 | 359 | 2,564 | 53 | 30 | 83 | 2,647 | From the 10th October 1853 to 20th February 1855, inclusive. |
| 319 | 50 | 13 | 9 | 391 | 16 | 2 | 1 | 2 | 21 | 1,582 | 727 | 2,309 | 139 | 57 | 196 | 2,505 | From the 21st Feb. 1855 to 11th Mar. 1856, inclusive. |
| 358 | 66 | 14 | 9 | 447 | 20 | 2 | 1 | 2 | 25 | 3,797 | 1,086 | 4,873 | 192 | 87 | 279 | 5,152 | |

(D.)

ENGLAND AND WALES.

Number of Persons Committed for Trial in the Years 1854 and 1855.

| | 1854. | 1855. |
|---|---|---|
| 1. To the Assize Courts; viz.— | | |
| Lent Assize - - - - - - - - - | 2,591 | 2,346 |
| Summer Assize - - - - - - - - | 1,748 | 1,459 |
| Winter Assize - - - - - - - - | 232 | 740 |
| Decrease, 26 persons; but any useful comparison is disturbed by the extension of the Winter Circuit from two Counties in 1854, to 22 Counties in 1855. | 4,571 | 4,545 |
| 2. To the Central Criminal Court - - - - - | 1,512 | 1,210 |
| Decrease, 302 persons, or 20·0 per cent. | | |

| | 1854. | 1855. |
|---|---|---|
| 3. To County Quarter Sessions Courts - - - - - - Decrease, 1,806 persons, or 12·2 per cent. | 14,763 | 12,957 |
| 4. To the Middlesex Quarter Sessions - - - - - - Decrease, 730 persons, or 23 per cent. | 3,119 | 2,389 |
| 5. Recorders' Borough Courts - - - - - - - - Decrease, 176 persons, or 3·3 per cent. | 5,394 | 5,173 |
| TOTAL committed for Trial - - - | 29,359 | 26,274 |

Decrease, 3,085 persons, or 10·5 per cent. But if allowance is made for 452 persons tried at the Winter Assizes, in 20 counties, who, under the usual course, would have waited for trial in the following year, the decrease would amount to 3,537 persons, or 12 per cent.

(E.)

CRIMINAL JUSTICE ACT.

This statute passed the 14th August 1855. Its operation could, therefore, only affect the commitments tried in that year, during the seven or eight weeks which intervened before the Michaelmas Sessions, during great part of which time the provisions of the statute would not be generally known, except where adjournments of the Michaelmas Sessions are held.

The only immediate data for estimating the effect of the summary provisions of the statute may be found in the trials at the Central Criminal Court, and at the Middlesex Sessions of the Peace, in the last three months of 1854, as compared with 1855. These were—

| | 1854. | 1855. |
|---|---|---|
| Central Criminal Court - - - - - - - - - | 399 | 314 |
| Middlesex Sessions - - - - - - - - - | 736 | 419 |
| TOTAL - - - | 1,135 | 733 |

This would show a decrease of 35 per cent., of which at least 25 per cent. may be attributed to the operation of the Criminal Justice Act.

The returns of the proceedings of the police courts of the metropolis are also confirmatory of this. They show the number of convictions under the Act to have been, in 1855,—

| | |
|---|---|
| August - - - - - - - - - - | 9 |
| September - - - - - - - - - - | 96 |
| October - - - - - - - - - - | 141 |
| November - - - - - - - - - - | 143 |
| December - - - - - - - - - - | 120 |
| TOTAL - - - | 509 |

(F.)

ENGLAND AND WALES.

NUMBERS of Persons Sentenced to TRANSPORTATION or PENAL SERVITUDE in the Years 1853, 1854, and 1855.

| | 1853. | 1854. | 1855. |
|---|---|---|---|
| Transportation - - - - - - - | 1,864 | 310 | 325 |
| Penal Servitude - - - - - - | 504 | 2,108 | 2,048 |
| TOTAL - - | 2,368 | 2,418 | 2,373 |

Appendix, No. 2.

## Appendix, No. 2.

PAPERS delivered in by *Horatio Waddington*, Esq., 21 April 1856.

(A.)

### ENGLAND AND WALES.

NUMBER of Persons sentenced to TRANSPORTATION and PENAL SERVITUDE in the Years 1853, 1854, and 1855.

| | 1853. | 1854. | 1855. |
|---|---|---|---|
| Transportation - - - - - | 1,864 | 310 | 300 |
| Penal Servitude - - - - - | 504 | 2,108 | 1,992 |
| | 2,368 | 2,418 | 2,292 |

The numbers in 1855 do not include those sentenced in the 20 counties on the Winter Circuit of that year, for which a winter assize had not been held in the preceding years, amounting to 25 transportation, and 56 penal servitude.

(B.)

RETURN showing the Number of MALE and FEMALE CONVICTS who have been Discharged in *Ireland* between the 1st of September 1853 and the 10th of April 1856.

| Male Convicts who have completed | | | | Female Convicts who have completed | | | | Males and Females. |
|---|---|---|---|---|---|---|---|---|
| 4 Years out of 7 Years. | 6 Years out of 10 Years. | 7½ Years out of 15 Years. | Total (Males). | 4 Years out of 7 Years. | 6 Years out of 10 Years. | 7½ Years out of 15 Years. | Total (Females). | Gross Total. |
| 970 | 177 | 2 | 1,149 | 21 | nil | nil | 21 | 1,170 |

The Number of Male Convicts who have been Discharged in *Ireland* on their return from—

| | |
|---|---|
| Bermuda - - - - - - | 365 |
| Gibraltar - - - - - - | 6 |
| TOTAL - - | 371 |

Government Prisons Office,
Dublin Castle.

*Walter Crofton*,
Chairman.

(C.)

NOMINAL RETURN, showing the Number of MALE and FEMALE CONVICTS who have been Discharged on Tickets of Licence in *Ireland*, up to the 10th April 1856.

| No. | NAME. | Date of Conviction. | CRIME. | SENTENCE. | Period passed in County or City Gaol. | Period passed in Government Prisons. | | | | Total Period Served. | | Revocation of Licence. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | Separate Confinement. | | Association | | | | |
| | | | | | | | | On Public Works. | | In Trades' Prisons. | | |
| | | | | | *Yrs.* *Mths.* | *Yrs.* *Mths.* | | *Yrs.* *Mths.* | | *Yrs.* *Mths.* | | |
| | MALES: | | | | | | | | | | | |
| 1 | James Lynch | 27 June 1851 | Burglary | 10 years' transportation. | 0 2 | - - | | - - | | 4 7 | 4 9 | |
| 2 | Hugh Mayo | 26 June 1852 | Larceny | 7 ditto | 0 5 | - - | | - - | | 3 5 | 3 10 | |
| 3 | Thomas Dee | 9 July 1850 | Robbery in dwelling. | 10 ditto | 0 6 | - - | | - - | | 5 3 | 5 9 | |
| 4 | John Connors | 2 Jan. 1851 | Sheep-stealing | 10 ditto | 0 5 | - - | | - - | | 4 10 | 5 3 | |
| 5 | James M'Elraith | 3 April — | Cow-stealing | 10 ditto | 0 2 | - - | | - - | | 4 10 | 5 0 | |
| 6 | Michael Reardon | 15 July 1850 | Burglary | 10 ditto | 1 10 | 0 7 | | 1 11 | | 1 4 | 5 8 | |
| 7 | James Nowlan | 18 June 1852 | Embezzlement | 7 ditto | 0 6 | 1 3 | | - - | | 2 0 | 3 9 | |
| 8 | Francis Reilly | 28 Feb. 1851 | Receiving stolen goods. | 10 ditto | 0 4 | - - | | - - | | 4 10 | 5 2 | |
| 9 | Robert M'Courtney | 19 July 1852 | Burglary | 7 ditto | 1 1 | 1 1 | | 1 4 | | 0 2 | 3 8 | |
| 10 | John Hynes | 14 Mar. 1851 | Robbery from person. | 10 ditto | 2 4 | 0 1 | | 1 4 | | 1 4 | 5 1 | |
| 11 | Michael Howell | 2 July 1849 | Sheep-stealing | 15 ditto | 2 3 | - - | | 4 6 (Gibraltar) | | - - | 6 9 | |
| 12 | Thomas M'Connor | 9 Jan. 1851 | Cow-stealing | 10 ditto | 0 4 | 0 11 | | 4 0 | | - - | 5 3 | |
| 13 | Martin Kelly | 4 Mar. — | Highway robbery | 10 ditto | - - | - - | | 4 0 | | 1 1 | 5 1 | |
| 14 | Robert W. Gibson, or Hone. | 17 Mar. — | Forgery | 10 ditto | 1 1 | - - | | 3 0 | | 0 11 | 5 0 | |
| 15 | Michael Hickey | 6 Mar. — | Burglary | 10 ditto | - - | - - | | 4 0 | | 1 1 | 5 1 | |
| 16 | Michael Meagher, or Maher | 5 Nov. 1852 | Burglary and robbery. | 7 ditto | 0 7 | - - | | - - | | 2 10 | 3 5 | Nil. |
| 17 | Cornelius Phillips | 9 July — | Having a stolen bank post-bill in possession. | 7 ditto | 0 6 | - - | | - - | | 3 3 | 3 9 | |
| 18 | Jeremiah Lane | 7 June 1850 | Robbery | 10 ditto | 2 11 | 0 1 | | - - | | 2 9 | 5 9 | |
| 19 | Michael O'Connor, or Connors. | 1 July — | Abduction | 10 ditto | 1 3 | 1 3 | | 1 11 | | 1 4 | 5 9 | |
| 20 | Michael M'Mahon | 17 June — | Cow-stealing | 10 ditto | 2 7 | 1 3 | | - - | | 2 0 | 5 10 | |
| | FEMALES: | | | | | | | | | | | |
| 21 | Mary Nailor | 28 June 1852 | Receiving stolen goods. | 7 ditto | 0 5 | - - | | - - | | 3 4 | 3 9 | |
| 22 | Mary Campbell | 2 July — | Larceny | 7 ditto | 0 7 | - - | | - - | | 3 2 | 3 9 | |
| 23 | Margaret Doogan | 25 June — | Larceny | 7 ditto | 0 9 | - - | | - - | | 3 1 | 3 10 | |
| 24 | Eliza Killeen | 30 June — | Arson | 7 ditto | 0 8 | - - | | - - | | 3 1 | 3 9 | |
| 25 | Margaret Donohoe, or Tatlow. | 18 June — | Larceny | 7 ditto | 0 8 | - - | | - - | | 3 1 | 3 9 | |
| 26 | Mary Maroney | 5 July — | Larceny | 7 ditto | 0 4 | - - | | - - | | 3 4 | 3 8 | |
| 27 | Mary Fitzgerald | 3 July — | Larceny | 7 ditto | 0 4 | - - | | - - | | 3 4 | 3 8 | |
| 28 | Ann, or Honoro Henessy. | 6 Dec. — | Larceny | 7 ditto | 0 3 | - - | | - - | | 3 1 | 3 4 | |
| 29 | Bridget Roche | 21 June — | Larceny | 7 ditto | 0 8 | - - | | - - | | 3 1 | 3 9 | |

The system of discharging Convicts on Tickets of Licence commenced in March 1856.

*Walter Crofton*,
Chairman.

# SECOND

# REPORT

FROM THE

## SELECT COMMITTEE

ON

# TRANSPORTATION;

*TOGETHER WITH THE*

## MINUTES OF EVIDENCE,

## AND APPENDIX.

*Ordered, by* The House of Commons, *to be Printed,*
20 *June* 1856.

296

*Jovis, 3° die Aprilis*, 1856.

*Ordered*, THAT a Select Committee be appointed to inquire into the Provisions and Operation of the Act 16 & 17 Vict. c. 99, intituled "An Act to substitute in certain Cases other Punishment in lieu of Transportation."

*Martis, 8° die Aprilis*, 1856.

Committee nominated of,—

Mr. Baines.
Sir John Pakington.
Mr. Scott.
Mr. Wortley.
Sir William Heathcote.
Mr. Adderley.
The Lord Advocate.
Mr. Serjeant O'Brien.
Mr. Henley.
Mr. Wickham.
Mr. John Wynne.
Mr. Massey.
Mr. Becket Denison.
Mr. Deedes.
Mr. Seymour Fitzgerald.

*Ordered*, THAT the Committee have power to send for Persons, Papers, and Records.

*Ordered*, THAT Five be the Quorum of the Committee.

*Jovis, 10° die Aprilis*, 1856.

*Ordered*, THAT Mr. Scott be discharged from further attendance on the Committee, and that Lord Naas be added thereto.

*Martis, 15° die Aprilis*, 1856.

*Ordered*, THAT the Committee do consist of sixteen Members, and that Mr. Monckton Milnes be added thereto.

*Ordered*, THAT Sir William Heathcote be discharged from further attendance on the Committee, and that Mr. Ker Seymer be added thereto.

*Jovis, 22° die Maii*, 1856.

*Ordered*, THAT the Committee have power to Report the Minutes of Evidence taken before them, from time to time, to The House.

REPORT - - - - - - - - - - - - - p. iii
MINUTES OF EVIDENCE - - - - - - - - - p. 1
APPENDIX - - - - - - - - - - - - p. 159

# SECOND REPORT.

THE SELECT COMMITTEE appointed "to inquire into the Provisions and Operation of the Act 16 & 17 Vict. c. 99, intituled 'An Act to substitute in certain Cases other Punishment in lieu of Transportation,'" and who were empowered to report the MINUTES OF EVIDENCE taken before them, from time to time, to The House :——

HAVE taken further Evidence on the Matters to them referred, which they have agreed to report to The House.

20 *June* 1856.

## LIST OF WITNESSES.

*Lunæ*, 2° *die Junii*, 1856.

Matthew Davenport Hill, Esq., Q.C. - - - - - - - p. 1

*Jovis*, 5° *die Junii*, 1856.

Matthew Davenport Hill, Esq., Q.C. - - - - - - - - p. 25
Sir Archibald Alison, Bart. - - - - - - - - - p. 28
Mr. James Smart - - - - - - - - - - - p. 48

*Lunæ*, 9° *die Junii*, 1856.

William Hart, Esq. - - - - - - - - - - p. 56
Mr. James M'Levy - - - - - - - - - - p. 59
Sir Matthew Barrington, Bart. - - - - - - - - p. 61

*Jovis*, 12° *die Junii*, 1856.

Rev. Joseph Kidd Walpole - - - - - - - - - p. 69
Mark Loome (Police Serjeant) - - - - - - - - p. 78
Mr. William Thwaites - - - - - - - - - - p. 88

*Lunæ*, 16° *die Junii*, 1856.

The Hon. Sir C. Cresswell - - - - - - - - - p. 101
Mr. Edward Shepherd - - - - - - - - - - p. 109
James Brennan (Police Inspector) - - - - - - - - p. 122

*Jovis*, 19° *die Junii*, 1856.

The Honourable Sir William Erle - - - - - - - - p. 126
Sir Richard Mayne, K.C.B. - - - - - - - - - p. 134
Mr. Henry Mayhew - - - - - - - - - - p. 145

# MINUTES OF EVIDENCE.

*Lunæ, 2° die Junii*, 1856.

MEMBERS PRESENT.

| | |
|---|---|
| Mr. Baines. | Mr. John Wynne. |
| Sir John Pakington. | Mr. Massey. |
| Lord Naas. | Mr. Beckett Denison. |
| Mr. Wortley. | Mr. Monckton Milnes. |
| Mr. Adderley. | Mr. Ker Seymer. |
| Mr. Wickham. | |

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

*Matthew Davenport Hill*, Esq., Q.C., called in; and Examined.

*M. D. Hill*, Esq., Q. C.

2 June 1856.

1779. *Chairman.*] I BELIEVE you are one of Her Majesty's Counsel?—I am.

1780. You are also Recorder of Birmingham?—I am.

1781. And one of the Commissioners of Bankruptcy for the Bristol district?—Yes.

1782. How long have you held the office of Recorder of Birmingham?—Seventeen years; from the year 1839.

1783. In the course of the year, no doubt, you try a very considerable number of prisoners?—A considerable number of prisoners.

1784. Has your attention been called to that which is the subject of inquiry before this Committee, the provisions and the operation of the Act of the 16 & 17 Victoria, intituled, "An Act to substitute in certain cases other punishment in lieu of Transportation"?—It has. It became my duty upon the passing of that Act to consider it very carefully; and the measure which it embodied also.

1785. Have you formed a judgment as to how far, looking to the experience we have hitherto had, the Act can be said to have worked well or otherwise?—I should say that I consider it to have worked well. I may add, and I ought to add, that it has worked much better than I expected it would.

1786. You have observed its operation from the time that it became law?—I have very carefully observed it.

1787. You have heard, I dare say, the unfavourable opinions expressed with respect to the operation of the Act in certain quarters?—I have heard a great number and a great variety of unfavourable opinions, but I have never been able to ascertain that they rested upon just grounds. At the same time, on the other hand, I have heard the results of the Act magnified beyond what I should be able to concur in. With regard to the unfavourable opinion, I consider that it is founded upon an error; that an effect is attributed to the ticket of leave which is, in truth, attributable to the necessity which exists, in the absence of the power of transportation to any great extent, of discharging criminals in this country who formerly were sent abroad. The inconveniences of that discharge were felt, and the cause was erroneously attributed to their being discharged with tickets of leave. It is not easy to understand how a licence, revocable, though not revoked, can operate injuriously upon the public; either it has some effect or

*M. D. Hill*, Esq., Q. C.

2 June 1856.

no effect. If it has any effect, I think it must be to check the disposition of the discharged criminal to go back to evil courses; knowing, as he does, that the Crown has the power, without giving any reason for what it does, by a stroke of the Minister's pen, to send him back to gaol; and though I think, if I may be allowed so to diverge, that deterrents are over-estimated in general, yet I think that, supposing the power which is given to the Crown of revoking tickets of leave be duly exercised, it furnishes a deterrent motive of peculiar strength, because detection is easy, and the punishment follows immediately upon detection. I say detection is easy, because, taking the conditions of the ticket of leave from the words endorsed upon the back of it, it is not necessary that the convict should commit any new offence. It is stated, that if he has no visible means of subsistence, if he consorts with persons of bad character, and so forth, he will be considered as about to fall again into crime, and his ticket of leave will be taken away.

1788. You have spoken of the conditions endorsed on the ticket of leave. Will you permit me to ask whether you conceive that they are capable of improvement?—I do not think they are capable of improvement, except in this, that they are now a dead letter; it would be a great improvement to give them a living force and efficacy. At present, although there is the threat, and a very just threat, held out to a convict, yet, in point of fact, we learn from Colonel Jebb that, with very few exceptions, there never has been a ticket of leave revoked until the convict was under charge for a new offence; and then, except in the few instances in which his new offence would only bring down a punishment that would expire before the expiration of his old sentence, it is quite clear that the revocation of the ticket of leave is a mere form. Therefore I cannot but consider it, as it has been acted upon hitherto, a mere form, and I cannot understand how that form can have any injurious tendency. I am very sorry that it has not been so treated as to have a very beneficial action; but the public prejudice against tickets of leave, as if there were something injurious in the matter, I cannot understand.

1789. Have you any observation to add with regard to the prejudice existing in the mind of the public with reference to these tickets of leave?—I would add this observation, that it is possible that the feeling may arise in the public mind from a belief that if the person enjoying his license leave had not had a ticket of leave, he would at that moment be in prison; but that is not so. Reverting to the former practice, it was not the usage to keep a transport, who for any reason was not sent out of the country, in confinement for the whole term of his sentence, and he was generally liberated much about the same time as he is now liberated under a ticket of leave. The public therefore, probably, or that portion of it who took the view to which I have adverted, were not aware that in all probability the same man, so far from being in prison if he had not had a ticket of leave, or rather if the ticket-of-leave system had not come into operation, would have been absolutely discharged, perfectly at liberty without any check.

1790. You stated, just now, that you considered that the good results of the system had been erroneously magnified; upon what ground do you make that assertion?—I think they have been erroneously magnified, because I think the statistics which have been given, that is to say, the per-centage of persons enjoying tickets of leave who have been subsequently re-convicted, is a piece of statistics likely to lead to very erroneous inferences. It is said that the number of re-convictions does not amount to more than 8 per cent. of the number of convicts discharged on tickets of leave. Now no doubt it is quite true that 8 per cent. of the convicts discharged on tickets of leave have been reconvicted, but I am by no means convinced that *only* 8 per cent. have been reconvicted; and it is quite clear that before that inference can be safely drawn it must be known that ticket-of-leave men can always be identified. But from the observations which I have made, and the inquiries which I have made, I have come to a very strong opinion that not only are they not always identified, but that a vast number of them escape identification; and the probability is, that a very considerable number of ticket-of-leave men have been reconvicted who are not known to have been previously convicted, and who therefore stand in our tables as convicted for the first time. I will offer to the Committee, if they will permit me, some facts in proof of that conclusion. I have carefully questioned the heads of the police at Birmingham as to whether they have any means of identifying

identifying all the ticket-of-leave men in Birmingham; they assure me that they have not, and they have given me very strong proof that they have not. In the month of November of last year I asked them to make out a list of all the ticket-of-leave men in Birmingham, and to watch carefully their conduct for a certain time, and then to make to me a report. They did so. They thought it fair and reasonable to tell each person that his conduct would be watched; that he would not be interfered with if he were doing well, but that his conduct would be observed and noted down. At the end of six weeks they sent me a schedule, which I have before me, and by that schedule I found that there were 19 men whom they considered as ticket-of-leave men. Within the last few days I have received another Report, in which they tell me they have discovered that five of those men were not ticket-of-leave men. Well, but 19 men for the town of Birmingham seems to be a very small number of licensees. I observe that Colonel Jebb says that 198 ticket-of-leave men belong to Warwickshire; they have been sent to Warwickshire. I do not know how the assignment is made, but they are in his evidence assigned to Warwickshire. Birmingham has very nearly half the population of the whole county, and I have not only observed that fact, but I have ascertained the proportion of prisoners convicted at the sessions in Birmingham on the one hand and in all the other parts of the county on the other; and without taking the Committee through the details of the calculation, which I can do if they wish, I find that there ought to be 80 ticket-of-leave men in Birmingham, whereas only 19 could be found, and of those five turned out eventually to be not ticket-of-leave men. I then questioned the police upon that difference, and they tell me that they have reason to believe that there are at least 40 in Birmingham, but they cannot venture with respect to more than those of whom they have given me the names to state that they are ticket-of-leave men; but 40 would be only half the number, according to the basis given by Colonel Jebb. Therefore, as far as the experience of Birmingham goes, I think I am justified in saying that there is sufficient difficulty in detecting a ticket-of-leave man to make me pause before I accept the eight per cent. as an accurate statement. I have also had the advantage of conferring with the chief superintendent of Bristol, and I find from him that there are 20 persons at Bristol who have been known as ticket-of-leave men. I do not find that they were all in Bristol at the same time, and therefore that would give as residents at any one moment at Bristol a smaller number; but I will suppose for simplicity's sake that they were all resident at the same time. I have made a similar calculation by a comparison of the population of Bristol and the whole population of England and Wales, and I find that there ought to be very nearly 40 ticket-of-leave men in Bristol, so that a similar result would follow.

1791. Is that calculation according to Colonel Jebb's statement?—No, not according to Colonel Jebb's proportion, which does not apply, because Bristol being a county of itself I cannot compare it as I can Birmingham and Warwickshire; I therefore take the proportion thus: there are no ticket-of-leave men whose numbers come into the tables but such as have tickets-of-leave in England or Wales. Then I take the population of England and Wales. I say, if the population of England and Wales give a certain number of ticket-of leave men, the population of Bristol ought to give a certain other number, and that other number is about 40.

1792. Mr. *B. Denison.*] Did you mean that the 80 whom you thought ought to be in Birmingham were a portion of Colonel Jebb's 198, on your own calculation?—A portion of Colonel Jebb's 198; he allocates 198 to Warwickshire; then I take the number of prisoners belonging to Birmingham, and the number of prisoners belonging to Warwickshire; and I say, if Warwickshire have 198 belonging to it, then Warwickshire having a certain number of prisoners, and Birmingham having a certain number of prisoners, I get the terms of a proportion by which I find how many there ought to be at Birmingham.

1793. Mr. *K. Seymer.*] Then you proceed on the assumption that a ticket-of-leave man remains in the place to which he is consigned on his discharge?—I proceed on the assumption that, if he is not there, some one from another part of the country comes to supply his place, and I think that that is a very fair presumption with regard to Birmingham and to Bristol, because Birmingham and Bristol form two of not more than 14 or 16 places in the United Kingdom of Great Britain and Ireland which are large enough to furnish harbourage for bad characters; and the probability is, therefore, that every such town, instead

*M. D. Hill*, Esq., Q. C.

2 June 1856.

of having less than its proportionate number, would have a larger proportion than that which arithmetic would give to it.

1794. Mr. *Monckton Milnes.*] Would it seem to you probable that the police could trace out accurately the locality of these ticket-of-leave men with the very limited amount of surveillance which is at present exercised with regard to them?—I think not; but I hardly think that it is the want of surveillance which is the great evil; I think I can explain how the difficulty really arises, and it appears to me to be thus. For the purpose of clearness I will compare our country with France. The criminal statistics of France, as the honourable Member probably well knows, are very full and accurate; ours are anything but full, and I fear anything but accurate. In France they have had for many years a very perfect registration of births; the name of the new-born child is not only registered but the names of his father and mother. It is therefore practically impossible to make any great use of *aliases* in France, and, in point of fact, I learn from Monsieur Demetz, with whom I have conversed very fully upon this subject, that there is no difficulty in identifying any person in France. If he is apprehended they ask him who he is; if they have any doubt of the truth of his answer they write to his place of birth, and if they find that he deceives them they keep him in confinement, but do not put him upon his trial until they have ascertained who he really is; having ascertained who he really is, they then write to Paris, where all the criminal statistics are drawn into a focus, and they learn what the French call his antecedents; that is to say, they know how many times he has been convicted, and probably a great deal more about him than the dry facts of his previous convictions. But in England our system of registration of births has not been in operation for a sufficient time to enable us to do that, and if it were so we do not draw into a focus at present all the information respecting criminals all over England, so that it would not be possible by application at any one office, nor probably at any number of offices, to obtain the information which is given in France. In the absence of this power, which cannot be created all at once, for the registers must have time to grow old, and Lord Brougham's Bill to establish a system of collecting and classifying judicial statistics must have time to be passed and worked upon, I have suggested, but the suggestion has not been adopted, this expedient. Captain Gardiner, the ingenious and excellent governor of the Bristol gaol, has possessed himself of a photographic apparatus, with which he takes the likeness of every one of his prisoners who he has reason to believe is a person really embarked in crime as a calling. Now he says he can produce copies for 6 *d.* each. It is believed by the police that, with the exception of London, 14 copies would be all that would be required, to send them to the great resorts of criminals, namely, to towns which are likely to be visited by old offenders, who desire to hide themselves, and to go where they are not known. Several would be required, no doubt, for London; say that 20 are required in all. Therefore, at an expense of 10 *s.*, not for every prisoner, but every one of a class which is well known, and can be perfectly designated by the police, you would have multiplied the portraits of all these men, and thus you would baffle their *alias*, which is now very powerful, and they would be recognised as old offenders. I may add, that I know, from cases which have come before me upon the bench, sessions after sessions, that long before the ticket-of-leave system came into operation, many veterans passed as being convicted for the first time. It is a troublesome matter to obtain the evidence of previous conviction, when the offender comes from a distance. You must not only have the certificate of his previous conviction, but you must have a witness who will swear to his identity; that is to say, one of the police of a distant town makes a long journey to come to swear that the prisoner at the bar is the man to whom the certificate applies.

1795. But would that extremely dangerous class to which you allude be a class likely to receive tickets of leave?—Yes, indeed; and at all events, if they did not, the system would be equally useful upon an absolute discharge.

1796. *Chairman.*] Do you conceive that such a system as that which you have now indicated, may be made of great advantage in the administration of criminal justice?—I do; and I do not speak from my own opinion (which is not worth much), but from the opinions of gentlemen connected with the police, who think that it would furnish them with a very great advantage.

1797. Mr. *B. Denison.*] How would you make it evidence?—I do not propose to make it evidence, but to use it as a clue for inquiry; for instance, I have

before

*M. D. Hill*, Esq., Q.C.

2 June 1856.

before me a portrait of a man, and the prisoner who comes answers to that portrait, and answers to any description which may be made to accompany that portrait, as to his height, and so forth.

1798. Mr. *Adderley.*] It is rather carrying out the description which is already given?—Exactly so. That enables me to write to the gaol where he comes from, and in that way I ascertain, before I go to the expense of sending for persons to identify him, that he is really the person he is suspected to be.

1799. *Chairman.*] You not only send such description as you can give in writing, but you send this photograph, and in that way you give greater assistance than would otherwise be given, upon the question whether that is the man or not?—Yes, and I give far greater assistance, I believe.

1800. Have you among your police at Birmingham intelligent and trustworthy men, through whom the inquiries which you have been mentioning might go?—Very much so; and allow me to add (which I am bound in justice to do), that I do not think they persecute either ticket-of-leave men or persons absolutely discharged; they tell me that they pass them in the street taking care not to recognise them, unless they know that they are engaged in evil courses.

1801. Lord *Naas.*] I presume that the ticket-of-leave men themselves take every means in their power to conceal their antecedents, and to prevent people from knowing them as ticket-of-leave men?—No doubt. When they have received their gratuity, supposing them to be addicted to evil courses, if the ticket of leave is found upon their persons, it may be evidence against them. Of course they destroy it instantly.

1802. Do they generally, do you think, change their ground, having received the last portion of their gratuity?—That it is very difficult indeed to say. I should think that those who are afraid of being identified do so; but it must be admitted that there is a disposition in the criminal to go back to the spot from whence he came, although that is the most dangerous place he can select. Probably it arises from his having friends there, and means of carrying on his criminal calling, which he has not so completely elsewhere. At the same time, according to my observation, since the establishment of railways thieves have become much more locomotive than they were, rushing about from place to place with rapidity, and in that way work a great deal of mischief. I may also go on to say, that railways have given very unfortunate facilities for disposing of stolen goods; a receiver of stolen goods at Aberdeen has established, in the belief of the police, an agency at Dundee. The stolen goods of Aberdeen are sent forthwith to Dundee, and are not recognised by the inhabitants; the owner is not likely to come so far to seek them, and no doubt the deficiency at Aberdeen is supplied from Dundee, and thus the balance of trade is preserved.

1803. Mr. *Adderley.*] These locomotive thieves have generally head-quarters in some of the large towns which you have alluded to, have they not?—They have head-quarters in the 14 large towns, and they make professional excursions from them, and go back to them; the less they are compelled to exercise their calling at home, the safer the calling.

1804. Mr. *Monckton Milnes.*] Have any cases come under your knowledge of ticket-of-leave men having got employment, and having been discharged upon its being discovered who they were?—No; I have neither known, nor have I heard, of any special instances.

1805. Do you think that the public opinion regarding ticket-of-leave men at the present moment is such that a man, working faithfully and honestly, would be discharged, on its being known that he was a ticket-of-leave man?—I cannot say how it would be at the present moment; but this I do know, that the hostility to a discharged criminal is far less than it was, and I believe it is diminishing every day; and I am perfectly certain that if the people of this country could only be assured that there was a fair reason for believing that the individual was a reformed man, a few years would make it very easy for him to obtain employment.

1806. Do you think that a belief in the possible reformation of criminals is gradually gaining ground in the public mind?—Not gradually, but rapidly.

1807. Mr. *Beckett Denison.*] Do you mean as to adults?—I should say, more emphatically, juveniles; but I believe with regard to all prisoners the strong prejudice against them is wearing away.

1808. Lord *Naas.*] Did the police of Birmingham tell you what state of life these

*M. D. Hill*, Esq., Q. C.

2 June 1856.

these 19 men were in?—They did, and I can tell the noble Lord, because I have every word of their information put down in the schedule.

1809. *Chairman.*] Have you the results of that inquiry stated in the form of a table?—I have the results of that inquiry in the form of a table, which I now hand in; and it will be seen there that 9 of the 19 are bad in their conduct. Of those five have, since that schedule was made, been convicted, and I believe one or two more, but I am informed with certainty as to five. With regard to two, their conduct is considered as doubtful, and the grounds are given in the schedule why some are considered bad, and some doubtful; the eight remaining are good; they are in an honest way of maintenance.

*Vide* Appendix.

1810. Have you stated all the grounds which you are desirous of bringing before the Committee for the opinion which you have expressed, that the good results of the Act have been erroneously magnified?—No, I have not.

1811. What other grounds are there which you wish to present to us?—It is left to be inferred from this proportion of only 8 per cent. of convictions, that the remainder, or a very large proportion of the remainder, are doing well. Now, the table which I have just handed in shows that that would be a mistaken inference with regard to that fraction of ticket-of-leave men who reside at Birmingham, at all events; and I have similar information (not detailed) with regard to Bristol. My belief is, that there is a very considerable number of ticket-of-leave men who will eventually be re-convicted, but who are now enjoying that season of impunity which all criminals do enjoy more or less, sometimes extending over many years, and that we shall have them dropping in by-and-by; and that view of the case is very much strengthened by the table which is found in Captain Whitty's evidence, in which it appears that the proportion of re-convictions is gradually augmenting at the rate of, I think, 3-10ths per cent. per quarter, that is, 12-10ths per cent., or 1 $^{1}$th per cent. per annum. This experience is in conformity with the experience in other countries. The most perfect statistics, and the most reliable that I know of, are the statistics of Mettray. The young persons who are discharged from Mettray are each put under the guidance of a patron, so called; a benevolent person, who does what he can for him, watches over him, and makes frequent reports to Mettray as to his conduct. Now, taking the whole of the experience of Mettray, which commenced in 1840, and goes up to January of the present year, we find that the number of *recidivistes* is 10 per cent., but there is a number beyond that of persons who are in a doubtful situation, of whom the best thing you can say perhaps is, that they are not being again convicted, but in regard to whom you have no very good reason to believe that they are doing well. I may say that my own experience at Birmingham, also, is in perfect conformity with that. Fifteen years ago I commenced a usage in which I have persevered, namely, that when young persons are convicted, of whom I believe that they are not hardened, and when I also find that their relatives are respectable, and desirous to take them again, or their employers, which is still better, are desirous to take them again, I pass a nominal punishment, and send the convict away with his guardian, so to speak; the person who takes charge of him. The guardian enters his name and description in a book, and he is visited from time to time for the purpose of inquiries being made as to the conduct of the ward, as I may call him. I have a register going back now for 15 years, and I find that it is quite necessary to divide the prisoners so disposed of into three classes, namely, those who are doing well, those who are doing ill, many of them being reconvicted (although we do not limit our classification to those who are actually reconvicted, but extend it to those whom we know to be going on badly), and those who are doubtful, dead, or gone, or whom we cannot trace; the middle number is always large.

1812. These of which you have been speaking, I suppose, are all cases of juvenile offenders?—They are mostly cases of juvenile offenders. I have now and then ventured upon trying the same experiment with a grown-up person, and with success.

1813. With regard to Mettray, which you mentioned just now, the institution is entirely for juvenile offenders, is it not?—It is. They consist of persons who at the time of their trial were under 16 years of age, and who were acquitted, because the jury said they believed they acted *sans discernement;* something like our acquittal on the ground of insanity. They are then transferred to a prison,

prison, and they are admitted to Mettray according as the conductors of Mettray may think them in a hopeful state.

1814. Do you believe it would be possible to apply such a principle as that which you have now mentioned to any considerable number of adult cases?—Does the Right Honourable Chairman mean the principle of letting them depart at once from the bar?

1815. I mean that?—It is essentially a rude expedient, but I believe it to be better than the state of things which we have had in this country, and the opinion of the police is decidedly that the persons so disposed of at Birmingham have been reformed in a greater number than they would have been if sent to prison to serve out their sentences; I say it is essentially rude, because they must be sent back to the very spot, and placed under the very circumstances in which they were when they fell, and therefore I only consider it in the majority of cases to be a choice of the less evil rather than the greater; there is one advantage which is essential to it; they go into a real family. Now it has been found in juvenile reformatories, that the more you can imitate a family the greater the chance of reforming the individual, but no imitation of a family can be so good as the reality; and there is that virtue in the scheme, but otherwise it is certainly a very rude expedient; the guardian has no legal power over the individual, nor is he always trustworthy, though I take great pains to ascertain his trustworthiness; but I am sometimes deceived.

1816. So far as regards juvenile offenders I understand you to say that the results of the system have been decidedly favourable?—The results of the system as regards juvenile offenders are favourable; the results of the system as regards adults are favourable, but the numbers are too few to justify an inference. I may state that this triple classification is made with great care at the celebrated prison of Munich, which is under the superintendence of the state councillor, Obermaier, and which has been so for many years. I applied to our Minister, Sir John Milbanke, sending him a series of questions, which he was kind enough to transmit to the Bavarian Minister of the Interior, with a request that he would obtain answers to them; those answers that Minister has had the goodness to obtain in considerable detail, and I have the details before me at the present moment; I have had them translated, and I will, with permission, hand in both questions and answers. (*The Witness delivered in the same.*) *Vide* Appendix.
I may further say, that when I find the re-convictions only eight per cent. in England, whereas with regard to Mettray, where they have young persons, where they keep them for many years, most of them until they are 20 years of age, where there is a system of *Patronage Société*, by which they are protected from being thrown upon the world when they leave Mettray, and are placed under good superintendence;—when (I say) I find that even then there are 10 per cent. of *recidivistes*, I find it very difficult to believe that eight per cent. really measures the number of those who are reconvicted in England; and supposing it accurately measured the number to-day, I should still be sceptical as to its accurately measuring the number in a few years' time, by reason of that gradual increase of proportion which Captain Whitty has pointed out in his table.

1817. Notwithstanding the uncertainty which there is in your judgment as to the true number of cases of persons going wrong again, are you nevertheless of opinion that the Act of 1853 has worked well and is working well?—I am of opinion that it has worked well and is working well; and that opinion is made up of a very considerable number of facts. I have sought information from a great variety of sources, and I depend not a little upon the strong conviction of such gentlemen as Colonel Jebb and the other practical men who have been examined before this Committee, although I do not always draw the same inferences as they appear to do from their statistics.

1818. I understand you to express an opinion that the principles of the measure are sound and good?—The principles of the measure I think sound and good; those principles appear to me to be two: first that of enabling the convict to shorten the term of his confinement by good conduct; and secondly, the principle that his enlargement should not be absolute, but should be qualified until the conclusion of his sentence, such qualification not rendering it necessary that he should commit a new offence before he is returned to confinement, but that he shall be returned to confinement if he deceive that confidence in his reformation, which is the groundwork of his licence; those are the two principles. Then with regard to the Act itself, a question will arise whether those principles have

*M. D. Hill*, Esq., Q.C.

2 June 1856.

have been successfully developed in the statute, and I must say I think the Act susceptible of very great improvement.

1819. The Committee will be glad to have your suggestions upon that point; what is the first suggestion which you would make?—The first suggestion which I should make is this: I have read carefully the debates upon the Bill, and I find that when it was introduced into the House of Lords by Lord Chancellor Cranworth, it had not that which now forms its characteristic; it was not a ticket-of-leave Bill; it was in truth an Act for punishing with a sort of imprisonment, called penal servitude, offences which had formerly been punishable by transportation. There was no intention at that moment to embody the principle of encouraging the convict to work himself out of prison; but it being felt, I suppose, that imprisonment was month for month, and year for year, a much more severe punishment than transportation, when the power of transporting convicts failed, it was thought right to diminish the terms of transportation, and to give terms of imprisonment which should be about equal in point of severity of punishment. Consequently it is found that all the terms of transportation, with the exception of transportation for life, are shortened by equivalent terms of imprisonment which are detailed in the 4th section. It is obvious that if a prisoner is to serve his whole term, whether of transportation or of penal servitude, justice demands that the penal servitude shall be made a shorter term than the transportation; you have had abundance of evidence to show that transportation is a much less severe punishment for an equal portion of time than penal servitude. But upon the second reading, it was suggested by Earl Grey that it would be desirable, if we could not send our prisoners to the colonies, at least to avail ourselves of the expedient of tickets of leave; and he mentioned that the experiment had been tried at Barbadoes, a very small island, where they had discharged prisoners within the island upon tickets of leave, and he reported the experiment to have answered. The suggestion would appear, by a speech of the Duke of Newcastle, or the Duke of Argyle, I forget which, to have been under the contemplation of Government before it was mentioned by Earl Grey; and when the Bill went into Committee, the Lord Chancellor brought it forward as a new measure, with its present characteristic of tickets of leave; but, as I must think, unfortunately, when the measure assumed its new character, and when, therefore, the reason for shortening the terms of transportation into terms of penal servitude had fallen to the ground, this 4th section was still retained. I quite concur with the Noble Earl (Grey) in thinking that all reason for shortening terms of transportation, in turning them into terms of penal servitude, is now gone.

1820. That is, for making the term of penal servitude less than the corresponding term of transportation?—Exactly. That is the first suggestion which I should make. I should strike out the 4th section.

1821. Sir *John Pakington.*] What is your reason for thinking that all reason is now gone for making the corresponding periods of penal servitude shorter than the periods of transportation; what force do you attach to that expression, that "all reason is now gone"?—I will explain my meaning. I find by the 9th section that penal servitude and transportation, so far as regards the privilege of a ticket of leave, or licence, stand on exactly the same footing. The Legislature made no distinction between convicts sentenced to penal servitude and convicts sentenced to transportation with regard to their claim to a ticket of leave. If the Right Honourable Member has any doubt, if he will just turn to the 9th section, he will see that it is so. Then it does appear to me not to be salutary, but pernicious, that the time over which a ticket of leave holds a discharged prisoner in check should be at all shortened. I am supposing that, inasmuch as the Legislature draws no distinction as to the claim to this privilege between a man sentenced to penal servitude and a man sentenced to transportation, each is to have it. But a practical difficulty has arisen, or has been supposed to arise, by the shortness of the term over which the ticket of leave would extend. The transport who maintained good conduct for three years under the old system had an absolute discharge; it is a little altered now, I think, by a regulation of the Home Office. However, what would strike me as the proper thing, is letting the penal-servitude man have the benefit which the Legislature has given him by the 9th section. But inasmuch as twelve months, supposing he receives his ticket of leave at the end of three years, is but a short time for the ticket of leave to be in force, I should like to see the original

seven

seven years brought back again, so that the ticket of leave may be in operation for four years, which would give time for a man really to form a substantially good character.

1822. I understand, then, that when you said, "now gone," you meant that it has been gone ever since the Act of 1853 passed, in consequence of the operation of the 9th clause relating to tickets of leave?—I am very glad the Right honourable Member has put that question to me, because I was speaking as to the legal operation. The practical operation has been different. The legal operation has been, from the passing of the Act, that a convict sentenced to penal servitude had just the same claim to a ticket of leave as a convict sentenced to transportation; but in point of fact, the administration of the Act has been different. I was about to go into the question of the administration of the Act, but I have taken the questions in this order. First, the principles of the measure; secondly, how have those principles been embodied in the Act; thirdly, can I make any suggestions for the improvement of the Act, and then I would go to the administration of it; but I will take the subject in any order that Honourable Members desire.

1823. *Chairman.*] I understand you to be of opinion that in a case which would be punishable, supposing the law not altered, by a sentence of transportation for seven years, there should be now a sentence of penal servitude for seven years?—Yes.

1824. And so with respect to transportation for 10 and 14 years; that the terms of penal servitude should be 10 and 14 years respectively?—Yes; not that I think there is any very good reason for limiting it, even to so short a period as that, but I would have it certainly as long as that; that is all to which I am pledging myself.

1825. Sir *John Pakington.*] I apprehend your main view is this, that whether a man is sent abroad or whether he is kept at home you would have him at the termination of his severe punishment, in either case, equally long under the effect of a ticket-of-leave?—Exactly so, and I entirely concur with the Noble Earl (Grey) upon another point, that if there be any distinction made, the term of the ticket-of-leave should be longer in England than it is abroad, because the number of temptations is greater in England. I also agree with him in believing that the probation in confinement would necessarily be longer when the convict was to be discharged in England than when he was to be sent to the colonies, because I think that the number of temptations in England being greater than in the colonies you ought to obtain a higher proof of his reformation before he is discharged in England than before you send him to the colonies.

1826. In the event of having no such proof of reformation in the case of a misconducted prisoner, and having sentenced, as you propose, each prisoner to seven years' penal servitude instead of four, do you contemplate that in the event of misconduct he shall be kept in penal servitude for the whole seven years?—No doubt, and I go further; I would willingly contemplate that he should be kept there for life if he did not work himself out.

1827. Even in the case of a seven years' sentence?—I am not speaking of a seven years' sentence; that would not be possible; but I am speaking thus: I am supporting a general principle, which I say is applicable to all persons who make a calling of crime, that when they are once detected and convicted they should be kept in confinement until they have given pretty strong evidence of their reform. I only mention that now to show that I do not at all flinch, if I may use such an expression, from the opinion that a misconducted criminal should remain in confinement for the whole term of his sentence.

1828. *Chairman.*] Your first suggestion, I believe, is substantially this (to adopt your own expression), to strike out the 4th section?—Yes.

1829. And then the effect of that would be, that instead of certain periods of transportation, you would substitute simply the same periods of penal servitude?—Yes. I would also adopt the suggestion which Earl Grey adopted, namely, that the use of the word "transportation," as conveying an idea, which according to new arrangements would become a fallacious idea, should be dispensed with; because I have been very much struck (and I consider it a very valuable piece of information, which I have gained by the privilege which has been conceded to me of reading the evidence of the former witnesses) with the distinction which has been drawn between the use of transportation as a means of disposing of reformed criminals, and the use of

*M. D. Hill*, Esq., Q. C.

2 June 1856.

transportation as a strictly penal ingredient in their sentence; and I wholly and cordially concur in the belief, that if we could find colonies willing to permit our reformed criminals to be absorbed into their population (and I believe also that when they have had sufficient evidence that criminals can be and are reformed, their prejudice against such absorption will pass away), under those circumstances, both the mother country and the colony would obtain a great advantage; the mother country by sending away, I will not say bad men, because I am supposing them to be reformed men, but persons who having fallen once may fall again, to a country where the temptations are less, and the means of obtaining an honest subsistence greater; and the colony would be benefited because the colony wants labourers, and so much wants labourers that several of our colonies are appropriating large sums of money to pay the cost of the emigration of labourers from the home country.

1830. Mr. *Adderley*.] To carry out the view which you have just propounded, would it not be necessary not only to strike out the fourth clause, but to remodel the whole Act?—If you think so I will adopt that view, for I dare say you are right.

1831. *Chairman*.] You referred just now to the 9th section; you observe in that 9th section the words, "a licence to be at large in the United Kingdom and the Channel Islands, or in such part thereof respectively as in such licence shall be expressed." Have you any suggestion to make with regard to that limitation of range which the convict is to have?—No further than to adopt very readily a suggestion which was thrown out by several witnesses, that it would be expedient to extend the licence to the whole of the Queen's dominions. I see no good reason for confining that licence to the United Kingdom and the Channel Islands; but I think that we have no right to go further than the Queen's dominions, and while holding, or professing to hold, the criminal in check, to permit him by law to go into a country where we have no hold upon him at all; therefore I do not propose that the extension should be further than to any part of Her Majesty's dominions.

1832. With regard to the revocation of a licence, does it appear to you that there should be any power on the part of a person whose licence it is proposed to revoke, to have an appeal against that decision?—It appears to me to be demanded by natural justice that he should be permitted to show cause why his licence should not be revoked. I do not propose to alter the grounds of revocation, which are stated in the condition endorsed upon the licence, but I do propose that he should have the means of meeting his accuser; at present he is subject to any accusation that may be made against him, which he has no power of answering. It will be observed that the course of proceeding is this: the Secretary of State revokes his licence. Now I will suppose the convict to be at Limerick; it then becomes necessary that a police magistrate in London should issue his warrant, and should send a police officer to Limerick to fetch this man. When he comes to London, all that the magistrate can do is to satisfy himself of the identity of the person brought with the person mentioned in the licence, and then he must send him back to Limerick, supposing that to be his place of conviction. I believe that the cumbrous part of that machinery got into the Bill by accident; that it was intended that a very different mode of proceeding should take place; and whenever the Act is altered, I apprehend that will be set right; but I only mention it for the purpose of showing that the ticket-of-leave man has no power at all; his licence is revoked before he ever hears anything of the matter; and if he were brought before the magistrate, and were to say, "This is very hard; I have done nothing to justify the revocation of my licence," the police magistrate would be bound to say, "It is revoked; there is no licence now, and I cannot hear you; the deed is done."

1833. What alteration in the Act would you suggest, with the view of carrying out your object in that respect?—I have not framed a clause, but the principle of the clause would be, that the party should have the power of showing cause either before the Secretary of State, or, what would be more convenient, before a magistrate; that he should know the charge made against him, and that the magistrate should hear what defence he had to make. The very extent and arbitrary nature of the power, I believe to be the reason why it has never been exerted.

1834. Mr. *Massey*.] Supposing the licence-holder should be subsequently convicted of an indictable offence, would you consider that a sufficient ground for absolutely revoking his licence without giving him any opportunity of being heard

heard against that decision?—Yes, I should; but in the majority of cases it would be a mere formality after such a conviction to revoke his licence, because the second conviction would in 99 cases out of 100 bring upon the prisoner a heavier punishment than his first, to say nothing of a portion of the first sentence having expired.

1835. The second conviction of course might, by operation of law, absolutely absorb his former sentence, but possibly he might be convicted for a period which would expire before the expiration of his original sentence?—That is the exception; the rule would, as I have observed, in 99 cases out of 100, be the other way.

1836. *Chairman.*] Your principle is, that the prisoner should have the power of showing cause against the proposed revocation?—Yes. I do not propose to alter the grounds upon which at present the Secretary of State holds out to a ticket-holder, that his ticket will be recalled. The endorsement upon the ticket of leave states to this effect, that the licence will be recalled if the holder of it has no visible means of subsistence, or if he associates with persons of bad character; and he must remember that it is not necessary that he should commit a new offence.

1837. Mr. *Wortley.*] Then it is to those species of misconduct which are expressed in the conditions, and which are not indictable, that you refer?—Yes. If a man has done any act clearly indictable, the simple way is to indict him; and if he should be convicted, and if his new punishment should not overlap the term of his old punishment, then to withdraw his licence.

1838. Mr. *Beckett Denison.*] Can you tell us what sort of information satisfies the Secretary of State that a man's ticket of leave ought to be revoked?—I cannot; but I can tell you what does not satisfy the Secretary of State, because I applied to him, sending him a copy of that schedule which I have put in, to revoke the licences of the persons who are reported (and the grounds of the report are given) to be badly-conducted men; and the answer which I received from the Secretary of State was, that he did not see sufficient ground for revoking the licence, but that if these men were convicted, even of the slightest offence, then he should probably think it right to revoke the licence.

1839. Mr. *Massey.*] Are you quite accurate; was the expression, "If they were convicted of the slightest offence"?—I will turn to the letter; the letter is signed, "H. Waddington," and addressed to me, dated 26th February 1856: "Sir,—I am directed by Secretary Sir George Grey to acknowledge the receipt of your letter of the 1st instant, transmitting a police report, as to the conduct of 19 licence-holders residing in Birmingham. In reply, I am to acquaint you that Sir George Grey does not consider that there is sufficient reason to revoke the licenses of any of these convicts at present, but he has desired the inspector of police at Birmingham to warn those among them who are suspected of having returned to dishonest practices, that their conduct will be carefully watched, and that on the first occasion of any offence, however slight, being legally brought home to them, their licences will be cancelled, and they will be sent back to prison to undergo the remainder of their sentences. I am to add, that Sir George Grey has recently adopted the practice, in certain cases, of restricting the licences, so as to prevent the return of convicts to their former associates."

1840. Mr. *Beckett Denison.*] Can you tell the Committee what is the process which is adopted with respect to a man who is out under a ticket of leave; does anybody write to the Secretary of State, and make a statement against the ticket-of-leave man, or how is it done?—I have shown the Honourable Member an instance in which one person wrote to the Secretary of State, and I have read the answer; I know of no other; but I do know this, that it has been publicly reported, and never contradicted, that Mr. Jardine stated from the Bench that the neighbourhood of his office was infested by 40 ticket-of-leave men, from which it must be inferred that they were ticket-of-leave men acting badly; and with regard to one of them, it was stated that he followed a police officer through the streets, abusing him in violent and obscene language. I took notice of that circumstance in a charge which I delivered in October last to the grand jury of Birmingham; and I said, what I must say now, that if they were persons whose tickets of leave had not expired, I was unaware of any reason why the Secretary of State should not be applied to to withdraw the licences of persons who conducted themselves in that manner.

1841. Mr. *Massey.*] Do you think a man ought to have his licence revoked

*M. D. Hill*, Esq., Q. C.

3 June 1856.

for being convicted of drunkenness, or of a common assault?—I do not say in every instance in which he is convicted of drunkenness, nor in every case of a common assault, because holding up a stick to a man within reach of striking him with intention to strike, would be enough to constitute an assault; but I can conceive many cases of drunkenness, and many cases of common assaults, which would, in my mind, fully justify the Secretary of State in withdrawing the licence. I apprehend that the licence is given upon a belief that the convict will conduct himself well; whatever, therefore, is proof to a reasonable mind that he is not reformed, and does not and will not conduct himself well, displaces the ground upon which the licence was given, and in my humble opinion and judgment the licence ought forthwith, upon proof of such a case, to be withdrawn.

1842. Mr. *Beckett Denison.*] Who are the parties that are in the habit of ascertaining whether a man has misconducted himself, and who also make a representation to the Secretary of State with respect to his conduct?—There is no functionary pointed out by the Act upon whom such a duty is cast; and I am to suppose that although my learned and highly-valued friend, Mr. Jardine, found himself very much annoyed by the fact of these 40 men infesting his neighbourhood, he did not bring the matter before the Secretary; I suppose so, because I cannot imagine that, if it had been brought under the consideration of the Secretary of State, those 40 men would have been allowed to be at large to corrupt others, and to put Her Majesty's subjects in danger of being garotted, and so forth. We know that persons who have led a course of crime, who have been convicted, and are not reformed, are the worst and most dangerous of all criminals.

1843. There are a great number of other persons, who are in an inferior situation in one sense to Mr. Jardine, as myself, living in the country; am I to write a letter to Sir George Grey, and say, I have reason to believe that a ticket-of-leave man has misconducted himself; and am I to expect that Sir George Grey upon my letter would order his ticket of leave to be withdrawn?—All I can say is, that I do not find in the Act that it is the duty of anybody in particular to give the information, nor what the information is to be when given, nor how it is to be supported in evidence before the Secretary of State when given, nor anything indeed upon the matter; therefore I cannot afford the Honourable Member any assistance in solving his difficulty.

1844. Mr. *Massey.*] Do you think that the discretion at present placed in the Secretary of State is not properly placed in him, and that a magistrate, for instance, should overrule his decision?—No, I cannot consider it better placed than in the Secretary of State, nor better placed than in the hands of the present Secretary of State. I did not mean for a moment to suggest anything else, but it did occur to me that probably so high a minister would not have time to enter into such an investigation, and for that reason, and for no other, I threw out the suggestion that the investigation might be conducted by a magistrate; but if the Secretary of State, or the Under Secretaries of State, have time for the purpose, in my humble judgment the power could not be lodged in better hands.

1845. Lord *Naas.*] If some such course as that which you have indicated is not taken, the terms upon which the tickets of leave are actually granted must remain a dead letter?—It appears to me to be so, and I think the fact supports that suggestion; they have been a dead letter, except in a very few cases, and in a few others in which a convict, convicted of a new offence, has a punishment which does not extend so far as to overlap, if I may use such a word, the old sentence; as, for instance, suppose a man to day is sentenced to four years' penal servitude, and in two years' time his licence is revoked because he has committed some new offence, then we have a man who has been previously convicted, who is again convicted; and I say the probabilities are that his new sentence will be more than the two years which have to run of the old sentence, and that that would be the case 99 times out of 100, and therefore that almost the only cases in which, according as the Act is now administered, the revocation of the licence is anything more than a matter of form, are those very rare instances in which the old sentence would be in operation after the expiration of the new sentence.

1846. *Chairman.*] Referring again to the beginning of the 11th section, which gives power to the Secretary of State to signify to one of the police magistrates that such licence has been revoked, do you suggest that the Act itself should be altered

altered there, or that the practice under the Act should be altered?—There may be a question whether you would not require some alteration in the Act, because in order to conduct such an inquiry properly, it would appear to me that there should be the power of administering an oath; now I do not find any such power in the Act, therefore I think that it would require an alteration.

1847. Do you mean that there should be the power of administering an oath to any person to whom the Secretary of State might apply for information upon the subject?—Yes.

1848. As the Act now stands, the Secretary of State has power to revoke the licence?—Yes.

1849. You would leave that power with him?—I would.

1850. Has not he power under this Act to institute any kind of inquiry which he may think proper or necessary, for the purpose of informing his own conscience, as it were, upon the subject?—He has that power without the Act; the Act does not give him the power.

1851. If it is made lawful for him to signify that the licence has been revoked, and if he is to revoke the licence, and to do it upon information and inquiry, is it not necessarily implied that he has the power to make the inquiry?—I am speaking as a lawyer and to a lawyer. What I mean is this, that if there were such a clear implication in the Act, that implication might incidentally give the power of examination upon oath; but I doubt whether the Right honourable and Learned Chairman would go so far as to say that there is a power, even by implication, given in this Act to administer an oath; the Secretary of State has no such power without the aid of the Act.

1852. You suggest that, in order to enable the Secretary of State to exercise this power properly, there should be further power given by the Act of Parliament for the administration of an oath, and for the institution of a complete inquiry upon the subject?—Yes; such an inquiry as would properly satisfy his legal conscience.

1853. Mr. *Adderley.*] Should not such an inquiry, in your view, be made on the spot, and not at any place within the reach of the Secretary of State?—I left it an open question of convenience. What I said was, that if it were found convenient for so high a minister as the Secretary of State, or for the Under Secretaries of State, who are very important persons themselves, to conduct these inquiries, it would be very satisfactory, to my mind, that they should be so conducted; but if, either from distance of place, or from any other circumstance, it were not found that that would be a convenient mode of proceeding, then I threw out that it should be entrusted, as other examinations are, to the magistrates.

1854. *Chairman.*] You have also suggested that there should be a legal right on the part of the licensee to show cause against the revocation of the licence?—Yes.

1855. For that purpose are you of opinion that an alteration in the terms of the Act would be necessary?—I think so; but I have not considered that subject very fully. If the Right honourable and Learned Member is of a different opinion, I should be very distrustful of my own.

1856. At all events, you are of opinion that it is a matter of so much doubt, that it is desirable to have that doubt cleared up?—By all means.

1857. Is there any other suggestion which you have to make with regard to the 11th section, as to the machinery for returning the convict to gaol after the revocation of the licence?—No; I feel so sure that the machinery, in its present state, is a mere matter of accident, perhaps the omission of a clerk in copying ing some words, and that it will be set right whenever the Act is remodelled, that I do not think I ought to trouble the Committee with any suggestions upon that matter.

1858. We shall be glad to have the benefit of any suggestion from you as to the language of the 11th section. Which are the words to which you refer as being now defective?—It appears to me that, even supposing there be no inquiry at all, there can be no reason for bringing a man from Limerick to London to have a warrant signed against him to convey him back to Limerick, and that therefore it need not be that he should be brought to London at all; but that if the Secretary of State revoked his licence, then the nearest magistrate to the place where he was apprehended might issue a warrant to send him to gaol. It is a mere ministerial act.

*M. D. Hill*, Esq., Q. C.

2 June 1856.

1859. Is there any other suggestion which you have to make with regard to the language of the Act itself?—None strikes my mind at this moment. I shall be happy to consider any suggestion.

1860. Have you any suggestion with regard to the practice under the Act?—With regard to the administration of the Act, I have some suggestions to make.

1861. Will you be so good as to state them?—I would certainly suggest that, even if the Act remain as it is, convicts sentenced to penal servitude should not be debarred the privilege of a ticket of leave; it is quite clear that they are not debarred by the Act itself, which places the two classes, those sentenced to penal servitude, and those sentenced to transportation, on exactly the same footing for that purpose. By the administration of the Act they are debarred, and what is the consequence? That as penal servitude is intended to be a punishment for slighter offences than transportation, you hold out encouragement to the greater offender; you say to him, You may work yourself out of gaol by good conduct before the expiration of your term; but as regards the minor offender, you say, You shall not work yourself out; you must stay there the whole time. You cut off hope from the lesser offender, while you give it to the greater, which seems to me to be an anomaly.

1862. Do you agree with those witnesses who have expressed an opinion before this Committee, that it is of the greatest importance to give the stimulus of hope to every person suffering imprisonment?—I agree in that most perfectly; it is a doctrine which I have been promulgating, in season and out of season, for many years; I cannot but agree with it.

1863. Will you proceed to any other suggestion which you have to make?—Then there is a suggestion which applies to this Act, but which extends far beyond the Act, and it is this: the absolute necessity, as it appears to me, in order to ensure the due administration of justice, that there should be full communication between the Home Office and judges, recorders, and magistrates who have to execute Acts of Parliament. At present the Home Office is called upon to make regulations of which judges, recorders, and magistrates know nothing; they are not communicated to them, and they are often a very great surprise upon them.

1864. Mr. *Beckett Denison.*] Do you mean regulations for prisons?—Regulations for prisons, and for transportation, and so on.

1865. *Chairman.*] Will you illustrate your meaning by giving us an example?—What I mean is this: that I think no person executing a judicial office knows at all what will be the practical consequences of any particular sentence which he may pronounce. He does not know what are the regulations in force, with regard, for instance, to how long it will take before the minimum of punishment will have been suffered, which minimum must be suffered before the prisoner will have a claim to a ticket of leave; indeed, he does not know whether, practically, he will have a claim to a ticket of leave or not, except he is a diligent reader of the newspapers; and I mention myself as an instance. I neither knew nor suspected, for two years after the passing of this Act, that there was to be the slightest practical difference made between persons sentenced to penal servitude and persons sentenced to transportation. Consequently, whenever I passed a sentence of penal servitude, I always told the individual, "Now you may remain in confinement for the whole term (we will say four years or six years), but it will be your own fault if you do; you have only to conduct yourself well, to be industrious, and to profit by the instructions which you will receive, and you will be discharged long before the end of that term." In the month of October last I took up the "Times" newspaper, and there I learned, from a letter of Colonel Jebb, that it was the intention of the Secretary of State to grant no ticket of leave at all to persons sentenced to penal servitude, except in excepted cases. The next time that I had occasion to communicate with the Home Office upon a particular case, I asked the question as to whether that communication from Colonel Jebb was an accurate statement or not; and I learned, to my surprise, and I may add to my dismay, that it was. Then I said, "If that be so, and if this intention of the Right Honourable Secretary of State will not be changed, I must in that case, but in that case only, ask for a mitigation of all the sentences which I have passed since this Act came into operation." Those sentences amounted to 159, and by one stroke of the Minister's pen, 159 judgments of a court of justice were changed; a fact which has never before taken place in our judicial history. These facts, and all the matters connected with them, which

bear

bear very much upon your inquiry, are in the correspondence between the Home Office and myself, which I hold in my hand, and I place it upon your table in hopes that you will print it in your Appendix.*

*M. D. Hill*, Esq., Q. C.

2 June 1856.

1866. Mr. *Beckett Denison.*] Will you state what was the result of the correspondence?—In answer to my letter I was called upon to state what sentences I should have passed if I had known that those sentences would be executed in their integrity; and let me add, that I felt very much relieved by the kindness of that suggestion.

1867. Sir *John Pakington.*] What was your answer to that question?—My answer to that question was, that I should pray that each sentence might be mitigated to one-third of its length.

1868. Mr. *Beckett Denison.*] Were the sentences so mitigated?—The sentences were so mitigated.

1869. *Chairman.*] The Home Office adopted your recommendation?—Yes.

1870. Sir *John Pakington.*] In the whole 159 cases?—In the whole 159 cases, with the exception of a few which had been mitigated before upon special circumstances.

1871. *Chairman.*] You having passed sentence under the impression that some dispensation of the period would take place there, as in the case of transportation, you found that that impression was wrong, and you therefore recommended that the sentence should be altered?—Yes; but at the same time I am bound in justice to myself to say, that I presented in the correspondence all such arguments as occurred to me against the expediency of the change; and I mentioned in my own defence how I had been led into the course which I had taken: first of all, that the Act of Parliament created no distinction; and secondly, that I had three several times, in the course of correspondence with the Home Office on particular cases, though not suspecting that there was any doubt upon this point, brought my course of proceeding under the notice of the Home Office; I mean that I was so dealing with persons sentenced to penal servitude, namely, dealing with them upon the footing that they had the same opportunity of working themselves out of prison by good conduct as persons sentenced to transportation.

1872. The question turned, I believe, altogether upon the 9th section. These are the words: "It shall be lawful for Her Majesty, by an order, in writing, under the hand and seal of one of Her Majesty's principal Secretaries of State, to grant to any convict now under sentence of transportation, or who may hereafter be sentenced to transportation, or to any punishment substituted for transportation by this Act, a licence"?—Yes.

1873. That, therefore, has the effect, I apprehend, of giving the Secretary of State the power of granting a licence in any or all of those cases?—Yes. No doubt it is an enabling Act, and not a compulsory Act. It is not imperative on the Crown to grant a licence in any case; but then I ventured to urge, that to vary the Act with regard to any particular class in the lump was, if not contrary to the legal meaning of the Act, at least a measure doubtful as to its being constitutional. Then my attention was very kindly called to the circumstance of the 4th section having diminished the length of term of transportation when it became a term of penal servitude; and it was said, that although that circumstance did not vary the legal construction of the 9th section, yet it was an indication to the Crown of an intention on the part of the Legislature that the shorter sentences should be executed in their integrity, and there was much argument upon that which I will not inflict again upon the Committee. It is contained in this correspondence. However, it has been subsequently stated, and stated before you by witnesses, that there was an intention on the part of the Legislature to make this distinction. Now, the only mode of getting the intention of the Legislature, so far as that intention is embodied in the Act, is by putting the true legal construction upon the Act, and the true legal construction it is admitted makes no distinction between the two cases. Then, as regards the policy of the Act of Parliament, I apprehend that first of all a person in a judicial position has nothing to do with that, but the Crown in the exercise of its discretion may have, and possibly has. That is to be gathered, I humbly suggest, from the course of debate upon the Bill. Now, the course of debate upon the Bill was not only not to draw any distinction between these two classes, but it was very decidedly to put them upon the same footing. In the House of Commons Lord Palmerston declared the principle of the Bill to be the principle of encouraging men to good conduct by the prospect of their term of imprisonment being

*Vide* Appendix.

*M. D. Hill*, Esq., Q. C.

2 June 1856.

shortened. The Right honourable Baronet who sits next to the Chairman, upon that stated that probably it was by inadvertence that the Act was so worded as that that encouragement would be confined to persons sentenced to transportation and penal servitude, and not extended to minor offenders punished by imprisonment; upon which Lord Palmerston remarked, "It may be very right to offer the same encouragement to minor offenders punished by imprisonment, but it must be by another measure." The Noble Lord adopted therefore by clear and necessary implication the construction put upon the Bill by the Right honourable Baronet, which was, that persons sentenced to penal servitude, and persons sentenced to transportation, were exactly in the same class; and that is in entire conformity with the speech of the Lord Chancellor when he introduced the Bill in Committee. True it is that the speech of the Lord Chancellor, when he introduced the Bill into the House of Lords, was somewhat different, because it was in truth a different Bill; it was then simply a Bill to shorten terms of transportation, and turn them into shorter terms of penal servitude; then, everything about encouragement, and about the opportunity of the prisoner to work himself out of gaol, would have been entirely out of place. But when the Bill was remodelled, and had its present characteristic of a ticket-of-leave Bill, it was again opened by the Lord Chancellor, who spoke powerfully upon the subject of encouragement. He was followed by Earl Grey; what his opinions were, this Honourable Committee know by the evidence which he has given before them. So that it is, as it appears to me, a thorough misapprehension to state, that either the law of the Act or the policy of the Act looked to make a distinction between persons sentenced to penal servitude, and persons sentenced to transportation as regards tickets of leave. I think the misapprehension has arisen by not adverting to the fact, that anything which fell from the Lord Chancellor or from any other Noble Lord, until the suggestion had been received of passing the Act upon the principle of licences or tickets of leave, was not applicable to the Act as it has now passed. I venture to take up more time upon this point than perhaps I ought to do, because I find, upon looking at the evidence of my friend, Mr. Waddington, with whom I have enjoyed an uninterrupted friendship of 30 years, that while he entirely exonerates me from blame, he does impute to me an official error. Now, I must very humbly but very firmly maintain, that I have made no mistake at all from beginning to end. I have made plenty of mistakes in my life, and shall probably make plenty more before I die, but that is not one of them.

1874. Mr. *Beckett Denison.*] Can you tell us whether similar occurrences have taken place with respect to other judges to that which has occurred with respect to yourself, and whether similar applications have been made?—I really do not know. I should gather from Mr. Waddington's evidence that I am an exception, but I do not know. I live in the country and pretty much alone. I have not had the benefit of conversing either with the Judges or with Recorders upon the subject, and what others have done I do not know.

1875. Mr. *Adderley.*] Is not your general suggestion upon this point, that wherever the Act of Parliament gives a discretionary power to the Crown, the Crown should not use that discretionary power without acquainting the Judges?—It would be a great comfort if all rules laid down by the Home Office which ought to have any operation upon the mind of a Judge in passing a sentence were regularly communicated to every Judge, to every Chairman of Quarter Sessions, and to every Recorder, and also to the magistrates. I see no reason why they should not be included. It is quite true Colonel Jebb suggests that there might be an inconvenience in regulations which mitigate hardships within the prison being known out of the prison to the companions and associates of the prisoners; that it is a wholesome terror that they should believe that the punishment is more severe than it is. I will not enter into the question as to how far any good is obtained by fallacies, but I hope that Judges, Chairmen of Quarter Sessions, and Recorders, might be entrusted with this information without much danger of their communicating it unduly to such persons as could be improperly affected by it. I may remark, as the Right honourable and Learned Member the Recorder of London is present, that he also, in the debate in the House of Commons, expressed a similar desire that there should be a more regular and frequent communication between the Home Office and persons who filled judicial situations. I wish to add to my former answers, that I now find from Colonel Jebb's evidence that, during the two years in which

which it appears that I am considered to have pursued a course of error, no rule was laid down. Colonel Jebb says, that he was the whole of those two years up to November 1855, in the hope that tickets of leave would be granted to persons sentenced to penal servitude; it is a little hard therefore that I am accused of falling into an error on the subject.

1876. *Chairman.*] Is there any other suggestion with which you can favour the Committee, in addition to those which you have already given us in reference to the provisions or the operation of this Act of Parliament?—With immediate reference to the provisions of this Act of Parliament, I do not know that there is; but I would humbly request to be permitted to suggest to the Committee that the evidence before them is so strong to show the value of encouragement in the treatment of criminals, that I should hope the opportunity of revising this Act will not be lost, to give all convicts, whether for short terms of imprisonment or for long terms of imprisonment, so far as practicable, the benefit of that principle, and that we shall avoid what I must call almost the opprobrium of holding out privileges to be attained by the great criminal which are refused to the smaller criminal. Now the impediment which stands in the way of the complete and full exercise of that principle, and which I suppose operated on the minds of the framers of this Bill to exclude prisoners convicted of minor offences is this, that a very short imprisonment affords no time at all for reformatory action. The inference which I draw from that fact is, that short imprisonments of persons who have embarked in dishonest courses are extremely pernicious, and operate as an education in crime. I have before me the calendar of the last Birmingham Session; there are 138 prisoners in it. I have before me a list of previous convictions of the prisoners whose names are mentioned in that calendar, and I find that 58 out of the 138 had been previously convicted. If I were to put the number of times together, I should find in the paper which I hold in my hand more than 200 convictions divided among those 58 persons, one youth having for his share nine. Now I apprehend that this operates most perniciously in various ways. It operates perniciously upon the prisoner; he goes to prison for a short time; he loses the wholesome dread of a prison, and the wholesome shame of going to prison; he learns to endure imprisonment; he is soon let out; he comes again for a rather longer time; he has now had some prior training, and he bears confinement better than he would have done; and so on from shorter terms to longer. Therefore I submit we treat him exactly in the way we should treat him if it were our object to train him to crime. If our object were to train him to crime, and to train him into the power of enduring punishment without turning his mind to reformation, in my opinion we could not take a better course than that which we now adopt by our system of short imprisonments. The operation upon the prosecutor is equally pernicious. If he felt that there would be a serious imprisonment and seclusion from society for a long time he would pause before he brought every small offence, or first offence, before the tribunals of the country. He would exercise his power of forgiveness a little more frequently than he does; but he now says, "Oh, the lad, or man, will be imprisoned but for a short time; it will be a wholesome lesson to him," whereas, instead of being a wholesome lesson, it is an initiation into a nefarious order of society. He leaves the honest portion of the community, and he becomes a member of the criminal class. I never was so much struck with these facts as upon opening this paper, and reflecting that this is the record of previous convictions at one single provincial sessions. The practical inference to be drawn is, that notwithstanding the apparent humanity of short sentences they are very injurious, inasmuch as they render reformatory action very difficult, and they are a complete impediment to the power of granting a ticket of leave. May I be allowed to say this, that having considered the matter for many years with as much care as I possibly could; and having observed all that has come under my view, and having read such books as I could procure upon the subject, I have a very strong opinion that the system promulgated by Captain Maconochie is the best embodiment of those principles, and observing that his plans have been made the subject of unfavourable comment by Earl Grey and by Colonel Jebb,. I hope the Committee will, in the exercise of their discretion, call Captain Maconochie, as a matter of justice to him.

1877. Is there any other point which you propose to bring before us?—You have been so indulgent in listening to suggestions that I am afraid to trespass,

*M. D. Hill*, Esq., Q. C.

2 June 1856.

but I think a more valuable document cannot be referred to than the Report of the Committee on Prisons in 1850; and I would just say, that it has been a subject of regret and surprise to me, that after the evidence which was given in support of the possibility of making a prison self-supporting, an experiment should not have been tried on the plan which was proposed by Mr. Pearson, and supported by proofs which appeared to me very cogent indeed.

1878. Mr. *Wortley.*] In answer to the Chairman, you stated that you thought the principle of holding out hope to a criminal in a prison was in all cases essential; have you considered whether there is not a class (a small one, I hope) to whom that measure cannot really and effectually be applied at all, and whether it is not the fact that there is a class who for the safety of society might justly be retained in safe keeping, like lunatics and others, for the rest of their lives?—I would hold out hope to them, but if they did not avail themselves of that hope, and amend their conduct, I have already stated, but I think it was before the Right honourable Member arrived, that I am prepared to face the question of confining them for the whole of their lives like lunatics.

1879. Now that it is likely, or at all events possible, that we may be deprived of the means of employing transportation as a punishment, and removing criminals altogether from the country for their lives, have you contemplated the possibility of some establishment, either in this country, or on the coasts of this country, within reach of frequent inspection, where persons of that hopeless character might be detained, and kept in safe custody for the rest of their lives?—I am entirely of that opinion; and I think that such custody need not be made very painful; that they may have all such indulgences as their unhappy state permits, short of turning them out again upon society.

1880. It would be necessary that their confinement should not be made painful, nor even very close, would it not, with a view to their health?—I should say so. I know that there are many persons who are not considered by medical men lunatics, who are entirely destitute of the power of self-government; they are happier, or at least less unhappy when in confinement than when at large; and I have known several instances of persons who seem to have an instinctive knowledge of their infirmity, and the moment they get out of prison they take means to go back. Mr. Frederick Hill, the late inspector of prisons for Scotland, my brother, details the case of a woman who had been committed, I think, 90 times; she certainly was sent to prison for very small offences, and when discharged, she rarely, according to my recollection of what he says, went a street's length but she broke a window, or committed some act for the purpose of being sent back; with the avowed intention of being sent back.

1881. I referred rather to criminals of the higher class, who had committed so many offences as to render them incapable of reform, inasmuch as, even if they tried, their circumstances would prevent it?—I quite adopt the suggestion of the Right honourable Member; there is such a class; and having exhausted all the means of reform upon them, and found that those means produced no good effect, I am prepared, for one, to see the Legislature empower the Executive to detain them for their lives.

1882. I know that you have studied these matters very much; have you, in the course of that study, met with any information as to the practical application of that principle in any country of Europe or America?—I think not, directly; but I find by the return from Munich, that there is a class of prisoners in Bavaria who receive a sentence for an uncertain period; it is not a sentence of imprisonment for life, for there is another class who are expressly sentenced to imprisonment for life.

1883. *Chairman.*] What is the form of the sentence for an uncertain period?—That I cannot tell you; but I will read, if you will allow me, what is said upon it; he is called, in the paper which I have handed in, "The criminal sentenced to penal servitude for an unfixed period." I should mention that the translator was a German gentleman, and he took "penal servitude" as the nearest English equivalent which he could find. This paper also says: "The criminal laws of Bavaria include the following punishments of personal restraint: 1. The sentence of the chain, which can only be awarded for life. The criminal sentenced to this punishment is fettered on both his feet by a long chain, to which a heavy iron ball is attached. 2. The punishment of penal servitude, which is never awarded for life, but either for a fixed number of years or for an unfixed period. The

The criminal sentenced to penal servitude for a time not specified, may, after 16 years' imprisonment, expect his liberation on the conditions named under section 7." Section 7 is: "According to the laws of Bavaria, industry and good conduct shorten the terms of imprisonment, according to the following rule. The criminal sentenced to penal servitude for an unfixed period may expect his pardon after 16 years' imprisonment, if, during his incarceration, or at any rate for 10 years, he have shown continually extreme industry, not have incurred punishment for malice or insubordination, and otherwise have given evident proofs of his reformation. Offenders sentenced to fixed terms of penal servitude, or to the house of correction, can, under the same conditions, shorten their terms of punishment, and may expect that mercy will be extended to them after having been imprisoned three-fourths of their time."

1884. Sir *John Pakington.*] I hardly need ask, after what you have stated, whether you do not consider, looking to the terms of the Act of 1853, that the Government, in that announcement which they made, that no licences were to be granted in cases of penal servitude, were not acting in conformity with the Act of Parliament?—I should ask, as a personal favour, to be permitted not to answer the question. I am an official servant of the Crown; very humble in degree; and the Right honourable Gentleman's question asks me to censure the ministers of the Crown.

1885. Your view of the Act of Parliament is that the terms of penal servitude there indicated were awarded as full equivalents for the corresponding periods of transportation, and therefore, that as a part of the period of transportation was practically passed under ticket-of-leave, so a corresponding part of the other sentence ought to be so passed?—That is my opinion.

1886. Regarding the Act of Parliament in that light, is it your opinion that the periods indicated in the Act of Parliament are full equivalents for the corresponding periods of transportation; of course you understand me as meaning in point of severity of punishment?—As regards severity of punishment, I think they are fully equivalent.

1887. If that is your opinion, take the case of the shorter and more common period, four years' penal servitude for seven years' transportation; if you think that the four years is a full equivalent for the seven years, even with a portion of that under ticket of leave, would not the change which you now wish to see accomplished, namely, a sentence of seven years' penal servitude, which might in the event of misconduct, all be passed in penal servitude, amount in fact to an alteration of the law in the direction of making the law much more severe than it formerly was?—It would; and I think the law ought to be made much more severe; that is to say, I think the law ought to be made so that it would operate with much more severity upon persons who would not avail themselves of the means afforded them for reformation.

1888. Am I to understand you to carry that opinion to this extent, that looking to our whole scale of secondary punishments as they stand, they are less severe than the interests of society require that they should be?—I believe that the terms of imprisonment which are pronounced from day to day in our courts of justice are of much less duration than is essential to the interests of society and to the interests of the individual sentenced, because they do not furnish the time necessary for reformation.

1889. Looking to the interests of society as promoted by the deterring nature of punishments, do you think that our present scale of secondary punishments is too light to be sufficiently deterring?—I think that our present scale of punishments is not very deterring, but then I hold the opinion that no scale of punishments is very deterring. I believe that deterrents have been over-estimated, and that, considering that you cannot get hold of the criminal immediately upon his committing the offence, nor with certainty at all as to any particular offence, a punishment, however severe, which is uncertain and at a distance, produces a very small deterring effect upon his mind, and that that is an essential difficulty attending the doctrine of deterrents.

1890. Then I understand you also to think that any alteration of our criminal law, in the direction of making our periods of penal servitude more prolonged, would not be valuable, as increasing the deterring effects of our law?—I think that it would have some value, as increasing the deterrent effect, because there is some deterrent effect; but I am inclined to put that advantage at a low value.

*M. D. Hills*, Esq., Q. C.

2 June 1856.

1891. Are you not inclined to think that such sentences as you have stated to this Committee to be part of the criminal law of Bavaria, would be more deterrent in their effects than any which now stand on the English Statute Book?—They would assuredly be more deterrent; because, in the same proportion as the amount of pain is increased, the amount of the deterrent is increased; but still I hold that you cannot effect much by deterrents; because we find that, even when a punishment is certain, if it is distant, it produces but little effect on the mind. Will the Right honourable Gentleman allow me to give an illustration. I went some time ago into Cornwall, and I found at a tin mine two distinct operations going forward, one under cover, where the workmen were exposed to the fumes of stoves, which fumes consisted of arsenic disengaged from the ore. The workmen who worked knew perfectly well that their lives would be at an end before they were 40 years old. There was another operation carried on in the open air, very much like the operations of agriculture, and, I was informed, quite as wholesome. Then I inquired what was the difference of wages between an employment consistent with a long and healthy life and an employment where a man was capitally punished with death before the age of 40, and I found that the difference was half-a-crown a week.

1892. Do you think that you can draw any fair analogy between dangerous occupations followed by nearly the same pay, and the deterring effects of punishment?—Yes; I think the analogy perfect.

1893. You have stated that punishments are less deterring than they otherwise might be, because they are distant?—Yes.

1894. Do not you think that the severity of the punishment would still form an element in the deterring effects?—An element, no doubt, but not a powerful element.

1895. You have stated a general concurrence, I think, in the opinions expressed to the Committee by Lord Grey on a former day?—Almost universal.

1896. Do you include in that concurrence in the opinions of Lord Grey an identity of opinion with Lord Grey, with regard to its being desirable, so far as possible, still to make transportation to a distant part of the world the termination of sentences in grave cases?—Yes; with certain qualifications, which, I rather gathered, were in Lord Grey's mind at the time, though he may not very fully have expressed them; that is to say, that the transportation, or the forced emigration, or whatever it might be called, should take place after the probation, for purposes of reformation, and that it should be rather looked to as a means of disposing of reformed criminals than as a means of punishment in itself.

1897. You find in Lord Grey's evidence a suggestion that men should be sent on tickets of leave during the latter part of their sentences to construct docks in the Falkland Islands; taking that as an illustration of his meaning, do you concur in the general opinion which he expressed, that it would be desirable still to terminate sentences by sending well-conducted prisoners, under tickets of leave, to distant parts of the world; I mean, of course, so far as proper allocations could be found for them?—I should consider sending a prisoner to the Falkland Islands only sending him to a prison out of this country, because I do not apprehend that, at the termination of his sentence, he could be absorbed into the population of the Falkland Islands; but Earl Grey, who has far more knowledge of the subject than I have, thinks that the population of the Falkland Islands may so increase as to absorb the transports after the termination of their sentences; if so, I should think that it was a good mode of disposing of them.

1898. I think you have rather misapprehended me; I did not ask your opinion of the Falkland Islands, as to whether it was a good or a bad place for the purpose; I only mentioned the Falkland Islands as one of Lord Grey's illustrations, to ask you whether you approved generally of the opinion that it is desirable that the sentences for our graver crimes should end by sending men under tickets of leave to distant parts of the world?—I should consider it, as I have before said, highly desirable that they should be induced, and I am not prepared to say that they may not be induced by coercion to go out of this country into colonies where there would be fewer temptations, and better means of obtaining an honest livelihood, and I think that a very admirable mode of ultimately disposing of reformed convicts; when I say reformed, I mean persons reformed as much as you can reform them; the circumstance of their having once fallen into crime must always give you a certain degree of distrust of their power of retaining their position in society, even when they are restored to it.

1899. But

1899. But you would make that part of the sentence rather a reward of good conduct than a portion of the penal part of the sentence?—I should be very much inclined to leave a very wide discretion in the Executive upon that matter.

1900. But still under tickets of leave?—Yes; tickets of leave I think the best form.

1901. You are of course aware that a considerable number of our convicts sentenced to penal servitude are sent to the military settlements of Bermuda and Gibraltar?—I am told so.

1902. Do you think that, amongst the great body of the public, and looking to those classes who are most likely to be affected by these sentences, and who of course are not conversant with the niceties of our criminal law, it makes any practical difference to them whether a man is sent to Bermuda or Gibraltar, or Western Australia or the Falkland Islands, excluding only as regards the period for which he is so sent?—Very little, indeed, unless he should, hearing of Western Australia, learn that it was in the same land where the gold mines were situated; and then, I think that his mind would not recur to the difficulties of travelling from Western Australia to the gold regions, but that, in his ignorance, he would rather felicitate himself upon being sent to a gold country; and I base that opinion upon what I have read in the history of the settlement of New South Wales, by Captain Collins. In that work there are several instances given of bands of convicts who believed that they should find their way back to Europe by land; that they should get to China, and from China to Europe; and more than once several parties of convicts deserted upon that hope, and were miserably lost in the desert, dying of hunger.

1903. I thought the form of my question was to make it clear to the learned gentleman that I could not be contemplating what effect the gold diggings would have; my question was simply this; would it make any practical difference in the view entertained of our punishments by the classes to which I have referred what part of the world a man was sent to, provided he was sent out of England?—Not at all, I should think.

1904. To the neighbours of any prisoner it would be practically the same thing, whether he was sent to the Falkland Islands, or Bermuda, or Australia?—Practically the same thing.

1905. Looking to the general objects of our criminal laws you have expressed a concurrence in the opinion of Lord Grey, that it would be well to do away with the word "transportation" in our sentences, and to sentence all to penal servitude?—I have.

1906. Looking to the facts to which I have referred in my last questions, let me ask you whether you think it might possibly be better to accept the converse of that proposition, and to sentence all to transportation, leaving it to the discretion of the Crown whether persons so sentenced should be sent to any of these settlements, or serve out their period in this country?—Earl Grey's opinion was founded, as I understood, upon a construction of the Act, by which it would appear that the Crown has a power of transportation, as the Act now stands, of persons sentenced to penal servitude, and he thought that it was advisable to keep the notion of penalty or penal infliction separate from the notion of emigration; and I suppose that he might arrive at that opinion from considering it to be very advisable, with regard to the colonists, not to send any persons whom they would suppose were under punishment; that their prejudices against convicts would be, to a certain extent, conciliated in that way. I am rather inclined, though I speak with some hesitation, to think that the suggestion of Earl Grey's is well founded.

1907. You would prefer that to passing a sentence of transportation?—Yes.

1908. In addition to the other suggestions which you have offered with respect to an alteration of the Act of 1853, do you think that it would be an improvement of that Act also to give the power of passing shorter sentences of penal servitude than the Act now permits?—Probably it would; probably it would be well to obliterate the distinction between penal servitude and imprisonment. I was very much puzzled at first to know what was meant by penal servitude, but I apprehend it means this: a species of imprisonment which gives the Executive the power to send the convict to the hulks or any of the Government convict prisons, and to move him about from place to place, which is a power they do not usually have under the common sentences of imprisonment. But I do not

*M. D. Hill*, Esq., Q. C.

2 June 1856.

see why he should not be moved about to the place best fitted for receiving him, and therefore I am inclined to think that either penal servitude should be called imprisonment or imprisonment called penal servitude.

1909. Mr. *Adderley*.] In recommending a reduction of sentences for a certain period of time, as a motive to good conduct, have you also considered Captain Maconochie's further proposal of task sentences, with the same object?—I have.

1910. Do you agree with Captain Maconochie's views upon that subject?—I do. I think the principle involved is a most excellent one, and it is adopted very much in our Government prisons. It is this: to make a great number of stages of improvement in the condition of the convict, so that every day he may feel that he may make himself better off than he was yesterday. That is an immediate motive. The strongest of all motives, no doubt, is the hope of liberty; but that must necessarily be at first a distant motive; but you want immediate motives; and the plan of many stages of improvement in the condition of the convict gives a series of immediate motives of the most important nature.

1911. Whatever your hopes may be of reformation in prison, you must still see a great danger of relapse on discharge from prison?—I do.

1912. Do you not consider that that is after all the most critical period in the treatment of a prisoner?—By far the most critical; and it is felt so by all good prisoners themselves, who often become low-spirited as the day of departure approaches.

1913. Are you of opinion that that is the point to which the consideration of Parliament should chiefly be directed at this moment?—I think it a very important consideration for Parliament to direct its attention to.

1914. Have you considered what institutions might be introduced into this country, or carried out to a greater extent than they have been, for the care of prisoners in discharge from prison?—I have, and I will speak to that; the Honourable Gentleman will allow me to preface it by saying, that with regard to numerous stages I was very much gratified with the evidence of Captain Crofton, in finding that one of those stages was actually entrusting the convict with his liberty for a short period; he was permitted to go out in the morning to labour, and entrusted to return to the prison at night. I think that an admirable introduction to the discharge from prison. Then, when discharged, I for my own part cannot imagine a better system than that of the *Sociétés de Patronage*, as the French call them, which exist, as the Honourable Member well knows, to a very large extent in France. I have inquired very carefully into their operation, and I believe it to have been most successful. The principle is, that with regard to prisoners discharged who are considered as hopeful, exertions are made to find them employment. The same system prevails in Bavaria, and is described in the paper which I have put in as coming from the Bavarian Minister of the Interior. It appears that in Bavaria the whole country is parcelled out into districts, each of which has its *Société de Patronage*. These again communicate with provincial *Sociétés de Patronage*, and the operation is this: when a prisoner is discharged he is sent to his parish, who are bound to provide for him at the moment. The parish put themselves into communication with the *Société*; they again examine into his case, and if he is not thought sufficiently reformed to go into private employment he is taken to a refuge, and is there employed and further disciplined. Of course that can only be a mild discipline, because he is not under confinement, but his education, so to speak, is completed there, and by that time employment is found for him, and then they watch over him as the French do, giving him advice and countenance, and a little assistance if it should be necessary; as little as may be necessary.

1915. Are these *Sociétés de Patronage* composed of private individuals?—They are composed of private individuals in all countries but one, and are upon the voluntary principle, and I believe they have succeeded in all countries except Austria; there they were not upon the voluntary principle, but were established by the Government, and the Government which established them was obliged to let them fall; they did not succeed.

1916. Do you conceive that the failure of Austria and the success of Bavaria have mainly been caused by the fact of the *Société* in the one country being in the hands of the Government and in the other in the hands of private individuals?—I do indeed; and I find in Tuscany that although the Ministers of the Grand Duke

Duke are officers of the *Sociétés de Patronage*, yet, nevertheless, it is on the voluntary principle; they were there as individuals. Those *Sociétés* are flourishing, and so they are in the United States of America.

1917. It is not essential to the success of any such societies that they should not only be entirely separate from prisons, but should be separate from any Governmental institutions?—I think so.

1918. There are countries in Europe which having no colonial outlet must have long resorted to some such means of disposing of discharged prisoners?—No doubt.

1919. Can you state the experience for any length of time of any such institutions in any European country?—I think they are something like 20 years old in France; and I should gather from that account which I have handed in, that they are of some considerable standing, but how much I do not know, in Bavaria; they are comparatively late in their establishment in Tuscany; I cannot answer the honourable Member's question with any degree of accuracy.

1920. Can you state in how many European countries such societies exist?—I cannot; I think I have enumerated all that I know of except Switzerland; I think there are some in Switzerland, but I am not sure.

1921. Will you state what institutions at all of that nature have been attempted in England?—The earliest attempt that I know of was that by Mrs. Fry, who established a society of that nature for female prisoners imprisoned at Newgate; that society is still in existence; it has been very useful. There is one at Worcester, which probably the Right honourable Baronet knows more about than I do, for the aid of discharged prisoners, and to patronise them. We had a meeting at Birmingham on the 15th of April, of which the honourable Member has been informed, at which we established a society of which he is now a member. I wish to be permitted to state, that my hopes of the success of that society are very much strengthened by this fact, that it was originated entirely by the three principal officers of the gaol, the governor, the chaplain, and the surgeon, with the concurrence of the matron; and that since the meeting which we held on the 15th of April, the two chief officers of the police have become subscribers to it, and offered to promote its objects in every way; Mr. Chief-Superintendent Stephens, and Inspector Glossop; it is very honourable to them.

1922. The great idea, of course, is to enable the prisoner to efface his old character and get a new character, so as to encourage an employer to take him into his service?—It is so.

1923. Will you state, with regard to the new institution to which you have just alluded in Birmingham, whether your plan is to have one depôt to which discharged prisoners should go, or to have several houses in various parts of the town to which they might go?—To have several houses in various parts of the town and the adjoining country districts, as I rather understand, for they are called cottages. I hand in a Report of that meeting of the 15th of April. *Vide* Appendix.

1924. You preferred these several houses, both in the suburbs of Birmingham and in the country, to any original depôt, as a readier mode of getting something equivalent to a domestic character, I presume?—Exactly so.

1925. Have you had sufficient experience to enable you to say that through that means you can get characters which encourage employers to take discharged prisoners into their service?—No; I have no such experience, but I have a strong hope of it.

1926. Sufficient time has not elapsed?—Time has not elapsed. The institution was only founded on the 15th of April, and they have not yet obtained the officer whom they call their agent, who is to be the acting person in these matters. Will the honourable Member allow me to suggest, that the experience of Thomas Wright, of Manchester, is very encouraging as to the power of obtaining employment for these persons if there is any one to vouch for their good dispositions.

1927. Can you state the plan which both Mr. Wright, at Manchester, and your society in Birmingham have adopted, by which persons become sureties for the good conduct of discharged prisoners taken into service?—Mr. Wright says that he has on various occasions, when he found that he could not obtain employment for a discharged prisoner on any other terms, himself become surety for various sums from 5 *l.* up to 20 *l.* He also goes on to say that his losses from such suretyship have been very trifling, although he has been engaged in this work of benevolence some 20 years.

*M. D. Hill*, Esq., Q. C.

2 June 1856.

1928. Can you state the nature of such suretyship?—I take it that he guarantees the employer against any act of dishonesty on the part of the servant.

1929. To a certain amount?—To a certain amount.

1930. Is that also the plan of the Birmingham society?—I believe that that is the plan which they intend to practise, but I should say that the reverend chaplain, Mr. Burt, knows much more of the subject than I do. I do not know much more than I have already mentioned. I put in Mr. Burt's letter, with a list of the subscribers and so forth. He explains the objects of the institution.

*Vide* Appendix.

1931. Do you contemplate such societies disposing of discharged prisoners not only by service in this country, but by emigration from this country?—I should venture to contemplate that; indeed it is impossible, in my opinion, to place a limit to the good which may be produced by such societies; but they must proceed step by step, and build any extension of their operations upon the success of the prior efforts.

1932. Do you consider that such societies would not only remove many difficulties in the way of discharged prisoners getting into service, but would also get rid of many of the difficulties in the way of their emigration, which the Government would have in so disposing of discharged prisoners?—I quite adopt the view of the honourable Member.

1933. Mr. *Wortley*.] Am I to understand you that all those societies are purely voluntary?—Purely voluntary.

1934. Do they not require a considerable expense?—I am in hopes not very considerable, because we adopt as a principle that the less assistance you afford in the form of money or money's worth the better, provided you accomplish your object, that object being to find the persons a home and employment.

1935. Mr. *Adderley*.] These societies find them work during the time that they are looking out for employment, do they not?—I suppose they do in Bavaria: we have nothing so sufficiently organised with us.

1936. But that would be the intention?—I do not believe they will have in Birmingham any places of actual work belonging to the society; I think the varieties of occupation, which the manufactures of the town are so great, that they would endeavour to place them under employment in existing establishments.

1937. Have you ever yourself felt such confidence in the influence of such societies as to take a servant into your own service from one of them?—Yes; I took a young woman 19 years ago from the recommendation of Mrs. Fry's society; she had been convicted of stealing plate at a house where she was employed as a charwoman; it was under circumstances of great temptation; her husband was out of employment and they were in a state of great destitution; she exhibited great good feeling immediately upon her apprehension; she pleaded "guilty;" she behaved extremely well; she was sentenced to 18 months' imprisonment in the Penitentiary, and my wife being interested in her by visiting Newgate, she made very minute inquiries into all the circumstances of her case, and into the circumstances of her relatives. She was discarded by her husband, but she was treated by her aged parents with great kindness. They visited her from time to time. On account of her good conduct, according to my recollection, she was permitted to leave the Penitentiary at an earlier period than the 18 months, and having made up our minds to receive her, she came to my house, and I put under her care an infant in very delicate health; and I can say that a more tender and watchful nurse or a more faithful domestic I never had in my life; and I might go on to say, I never hope to have, and I might go on further to say, I never wish to have. She eventually went back to her husband, and they came to visit us, occasionally, for many years. We have now lost sight of them, but we have never had any reason to suppose that she fell back into evil courses, was anything but a very respectable woman.

1938. Do you not think that but for such an institution as Mrs. Fry's, that woman would have had very little chance of getting into respectable service?—Very little chance, from the circumstance of her husband being so indignant at her offence as I have described to you. It was only when he found she was fostered by others that he remembered his duties towards her.

1939. Mr. *Beckett Denison*.] Do not you believe that an immense number of prisoners would have been moral characters if they had been placed in such a society?—I most cordially believe it.

*Jovis, 5° die Junii*, 1856.

MEMBERS PRESENT.

| | |
|---|---|
| Mr. Baines. | Mr. Deedes. |
| The Lord Advocate. | Mr. Wickham. |
| Mr. Beckett Denison. | Sir John Pakington. |
| Mr. John Wynne. | Lord Naas. |
| Mr. Massey. | Mr. Serjeant O'Brien. |
| Mr. Adderley. | Mr. Ker Seymer. |

THE RIGHT HON. MATTHEW BAINES, IN THE CHAIR.

*Matthew Davenport Hill*, Esq., Q.C., called in; and further Examined.

*M. D. Hill*, Esq., Q.C.

5 June 1856.

1940. *Chairman.*] ARE there any points upon which you are desirous of adding to the evidence which you favoured the Committee with at their last meeting?—I have very little to add, but something to correct, or rather to qualify. I find that I stated that there were *Sociétés de Patronage* in France in such general terms as might lead the Committee to believe that there were *Sociétés de Patronage* for adults. But from conversation that I have since had with M. Demetz and M. Verdier, I learn that though they both very much desire that there should be a *Société de Patronage* for adults, yet at present there are no such societies except for young persons; and they have explained to me the difficulties which exist: they are difficulties which would have no existence in England; but there is a feeling in France that it would destroy the *éclat* and the grace of a pardon pronounced by the Emperor, that it should be only provisional. However, they hope that the difficulty will be got over; for they are both, from their long experience of the good effects of such societies in respect of young persons, very desirous that the plan in France should be extended, as it has been in Bavaria, and I rather think also in Belgium, as well as in other countries, to adults. M. Demetz himself has had some experience of such a society upon a very limited scale for adults of a particular class. He refers to persons who are acquitted. It appears, not only from his report, but from others which I have had, that there is a strong prejudice in France against all who have been in prison, a prejudice which is not got rid of by the fact of their being acquitted, even where the opinion of the court is that they are innocent. He formed a plan for obtaining employment, not for all who were acquitted, but for such as were acquitted and received a letter or certificate from the judge that there was no ground for supposing them to be otherwise than innocent. He supported this undertaking at his own expense for some years; but his fortune, he says, is not large enough for such an enterprize; and he then formed a society, which is still in existence, as I understand, and still flourishes; and the experience of that society has led him very much to desire an extension of the principle. He has requested me to present in his name two little works, which I hold in my hand, in which will be found his opinions, and certain facts upon which those opinions are in some degree formed. One is very curious, and I apprehend that I may mention it. It is, that a large manufacturer in Paris, as long ago as the year 1838, said to him, "I cannot employ persons who are absolutely pardoned, because I find there is no control over them, and that they are not always reformed; but if you can obtain a law to enable me to employ persons provisionally pardoned, that is to say, in other words, if you can obtain a law for a provisional pardon, I will employ them, because then I shall feel that I shall have a hold over them." Accordingly M. Demetz has done his best to obtain such a law, but hitherto without effect. He asked me to present to the Committee these books, which I will put in. (*The same were delivered in.*)

1941. Is there any other point upon which you wish to add to your former evidence?—Yes. There are certain matters upon which I did not touch, partly from inadvertence, and partly because having expressed myself with regard to some of them more succinctly in a charge I delivered at Birmingham in October last, than I could hope to do *viva voce*, I was in hopes that the Committee would

*M. D. Hill*, Esq., Q.C.

5 June 1856.

* *Vide* Appendix.

indulge me by allowing me to hand in that charge for their Appendix. (*The same was delivered in.*)* There is one point I desire to observe upon, which is this, that, upon looking carefully into the Returns, I find that the principle upon which tickets of leave are issued, is this, that the prisoner must have served a given time as his qualification, which qualification is defeasible if his conduct has been bad. Allow me just to give an illustration that must be familiar to every gentleman present: The qualification for a vote in a borough is occupying a 10 *l.* house, but that qualification is defeasible if the voter receives parish relief. Now here the qualification is not conduct; the qualification is having served for a certain time, and that period having expired, if the conduct is not blamable, then, according to the mode of administration which has been adopted, the prisoner has his ticket of leave; and that you will find proved in this way: In the first Return that was made there was a notification from the Home Office that very few indeed had disentitled themselves to claim their ticket of leave from the first moment they could have it, and those few after a very short detention, had been considered to have so far redeemed themselves that the ticket of leave was granted. Now, supposing that the principle, which I must consider the true principle, had been adopted of making men work themselves out of prison, it is quite clear that there would have been every variety in the time at which that object would have been accomplished by the various prisoners; whereas we now find them turned out by batches, great numbers at once, showing clearly that it is the principle of time which has been adopted. In further proof of that, I find in a speech by Sir George Grey in the House of Commons a few weeks ago, that he distinctly said, "We do not consider prisoners as reformed when we give them tickets of leave."

1942. You take that from the newspaper report?—I take that from the "Times" report. I was not there to hear the speech, but I do not see any reason to doubt its accuracy.

1943. In each of those cases it is required that the conduct of the prisoners should be good?—No doubt it is required that the conduct should be good; that is to say, that they should come up to a certain level. If it is below that, then the man would be retained. But what I mean is this; supposing there were a minimum of time appointed, then if men really worked themselves out by industry and good conduct, you would find that one man would be gone immediately upon the minimum having expired, and others would remain a longer time; it would be something like running a race; there never could be any approach to equality if the industry and self-control of the man, the qualifications which are to ensure his perseverance in well-doing after his discharge, are really and truly the *causa causans* of his liberation. I must be permitted to add two letters to the correspondence respecting the ticket-of-leave men at Birmingham, as to whom I applied, that their licences should be withdrawn, or at all events that a condition should be imposed upon them to prevent their remaining at Birmingham. I will also deliver in a report, which ought to have been delivered in before, the report as to the ticket-of-leave men who have been resident at Bristol.

(*The same were delivered in, and are as follow:*)

Heath House, Stapleton, Bristol.
1 February 1856.

Sir,

In the month of November last I requested the police of Birmingham to keep a watchful eye on the course of life pursued by such convicts as were residing at Birmingham under the protection of tickets of leave, my attention having been drawn to the subject by the perpetration of a garrotte robbery, planned with much cunning, and in which the booty was very large. I may add, that this has been followed by many other similar offences committed in that borough.

I have now received from the Chief Superintendent a report, which I take the liberty of forwarding for your inspection.

It will be seen that the total number of licences is 19, perhaps only 18; as with regard to one convict, it is uncertain whether he has a ticket of leave, or an absolute discharge.

That of these 19 convicts, the conduct of nine is bad, of two doubtful, and of eight good.

These proportions differing so widely from those furnished by Colonel Jebb, after making all reasonable allowance for errors, which (as I think) have crept into his proportions, show to my mind that Birmingham is a very unfit place for the residence of convicts discharged on ticket of leave.

With

*M. D. Hill*, Esq., Q. C.

5 June 1856.

With regard to the nine, or such of them as are still at large, their conduct would, I submit, fully justify the department in acting on the warning endorsed upon each ticket of leave, and revoking their licences. But if that should be thought too harsh a measure, allow me to suggest, that the 9th section of the 16th & 17th Victoria, chapter 99, gives power to alter the licence after it has been granted, and thus to banish the holder from Birmingham, and prevent his resort to any other populous town.

I am informed by the police at Birmingham, that they are not in possession of any lists of convicts to whom tickets of leave have been granted, and that the absence of such documents renders much inquiry sometimes necessary before they can ascertain whether a particular individual is at liberty under licence or by absolute discharge; and in other cases, although they know from a variety of *indicia* that a given person belongs to the criminal class, yet they are uncertain as to whether he has ever been convicted or not.

In addition to these lists, it would be very desirable that facilities should be given for identifying convicts, as they frequently change their names.

Captain Gardiner, of the Bristol Prison, has applied the photographic process to the important service of taking portraits of all prisoners coming into his gaol, whom he believes to be engaged in crime as a calling. At the cost of 6*d.* for each portrait, he could produce them for the use of the police of the metropolis, and of other large towns. Of these I am told there are not more than 12 in the United Kingdom which are large enough to afford harbourage to convicts, consequently the expense would be trifling.

By the aid of these portraits, together with the lists to which I have adverted, it would be rendered almost impossible for a convict, or any member of the criminal class, to escape detection by moving from place to place, which by means of railways he now does, to the great increase of difficulty cast on the police, and to the consequent impunity of many guilty persons.

I have, &c.
*M. D. Hill.*

Secretary the Right Honourable
Sir George Grey, Bart.

Heath House, Stapleton, Bristol,
28 February 1856.

Sir,

I HASTEN to acknowledge with much gratification Mr. Waddington's letter of the 26th instant, respecting the convicts residing at Birmingham under licence. Inserted at p. 11.

In my letter of the 1st instant I had the honour to suggest, that if the evidence against certain of these convicts were insufficient to induce you to revoke their licences, it might nevertheless call for such an alteration, under the provisions of the 9th section of the Act, as would preclude them from remaining in Birmingham, or repairing to any large town.

Although this suggestion is not referred to by Mr. Waddington, I feel no doubt it has received due consideration. I shall forthwith transmit a copy of this correspondence to the mayor and council of the borough, who will, I make no doubt, rejoice to learn that a prospect exists of Birmingham being gradually relieved from the dangers occasioned by the resort of convicts under tickets of leave to that place.

I have, &c.
*M. D. Hill.*

To the Right Honourable
Sir George Grey, &c. &c.

REPORT of Superintendent of Bristol Police as to 20 Ticket-of-leave Men.

Bristol Police Force, 6 May 1856.

TWENTY convicts granted tickets of leave by the Government are known to the police to have returned to this city, of which number three are reported to have since enlisted in the army; five subsequently convicted of felony and sentenced, one to transportation for 20 years, three to four years' penal servitude, and one to 12 months' imprisonment for uttering counterfeit coin; five since left the city, one of whom is reported to have gone to sea, three to Wales, and the other to Exeter; five believed to be in honest employment; two, present occupation of a doubtful character.

*John Sims Handcock,*
Superintendent.

1944. Mr. *Adderley.*] When you say that there are no *Sociétés de Patronage* for adults in France, are you quite clear that there are no such *sociétés* for female adults?—I am not sure whether there are or are not.

1945. Are you not aware that there is an extensive system throughout France of visiting the prisons conducted chiefly by ladies?—I have not much knowledge upon that part of the subject.

1946. Do you consider that provisional discharge is a necessary part of the system of patronage?—Certainly not; I think it is a very useful adjunct, but I do not think it essential.

1947. Have you maturely considered whether the action of such a society is not better if it is completely distinct from, and after the penal treatment is concluded?—I think it very likely that the attention to prisoners in many cases ought to extend beyond the conclusion of the penal treatment after the expiration

*M. D. Hill*, Esq., Q.C.

5 June 1856.

of the licence, but I do not think it advisable to wait for the expiration of the licence. I think, perhaps, the best time at which a prisoner can come under the superintendence of a *Société de Patronage* is immediately upon his discharge, whether that discharge be provisional or absolute.

1948. Do not you think that the Paris tradesman you alluded to, who said that he would be ready to take workmen a under provisional discharge, would be still more ready to take workmen who could get a recommendation from a *Société de Patronage* distinct altogether from penal treatment?—It is very possible. If he could have a certificate stating, "This man has been at liberty; he has been released from all physical restraint, and he has, to our knowledge, amidst all the temptations which surrounded him, conducted himself well for a certain time;" it is very probable, and very reasonable, that such a certificate should have great weight.

1949. Are not the persons who are taken into the charge of the society of which you are a member in Birmingham, completely discharged from prison first?—The society is intended to extend to such persons, but I am not aware that it is intended exclusively for such persons, but for all, whether discharged provisionally or absolutely. The greater number, as the law now stands, were discharged absolutely, because the principle of *liberté provisoire* does not apply in England practically, except to transports, and of those now there are not more than 400 or 500 sentenced in a year.

1950. Will not those who have been absolutely discharged be most likely to get first into employment?—I see no data for giving an answer to that question; I cannot tell.

Sir *Archibald Alison*, Bart., called in; and Examined.

Sir *A. Alison*, Bart.

1951. *Chairman.*] I BELIEVE you fill the office of sheriff of Lanarkshire?—I have been sheriff of Lanarkshire for 21 years; and for 10 years before that I was one of the town council in Scotland and advocate depute.

1952. The sheriff of Lanarkshire, I presume, has jurisdiction over that very important place, Glasgow?—The whole of the serious criminal business of the county and city of Glasgow goes through the hands of the sheriff of Lanarkshire. All persons committed for trial are committed by the warrant of the sheriff or his substitutes; so that the sheriff has the whole of the criminal proceedings of a serious kind under his eye.

1953. You have also a criminal jurisdiction of your own?—The sheriff by the Scotch law has a universal jurisdiction in criminal matters, with the exception of transportation. It is a curious anomaly that he can pronounce sentence of death, but he cannot transport; the reason is, that under the old Scotch law the power of death was given to the sheriff, and very often exercised by him before the establishment of the colonies, but the sheriffs never acquired the right of transportation. Of course the capital power is now practically taken away, but the sheriff pronounces all sentences up to transportation practically every day.

1954. Besides those functions which you have described, I believe you are an officer of the Circuit Court?—The sheriff is bound to be in attendance in the Circuit Court as the chief criminal magistrate of the county, and always is. I have six under-sheriffs who assist me in the discharge of my duties, which are far too onerous to be discharged by one man.

1955. You have had ample opportunities, I infer, of witnessing the administration of the criminal law throughout its whole extent?—I have had the greatest possible opportunities for above 30 years; because, as one of the Crown counsel, I drew one-third of all the indictments in Scotland during the time I held that office; and since I was made sheriff, I have, either myself or through my substitutes, tried upon an average 300 or 400 criminals every year.

1956. Have you had your attention called to the subject of the inquiry of this Committee, namely, the operation and provisions of the 16th & 17th of Victoria, which is intituled, "An Act to substitute, in certain cases, other Punishments in lieu of Transportation"?—My attention has been frequently drawn to that subject of late years, chiefly in consequence of the great apprehensions which I entertained before the change was introduced of the bad effect which it would have in Scotland. I should explain that by saying that the substitution of imprisonment for transportation is a much more dangerous and serious thing in Scotland, in consequence of the administration of the Scotch law, than it is in England or in Ireland. In Scotland there is a gradation of courts and a gradation of punishments

ments for offences from the lower to the higher kind, the effect of which is, that the higher class of criminals only are sentenced to transportation. For ordinary cases of stealing, pocket-picking, and so on, first they are sent to the police courts, and from them they receive sentences of imprisonment which cannot exceed 60 days, the trial being summary, without a jury. Then, after being thus convicted two or three times, they are next sent to the sheriff, and he is empowered to inflict longer punishment. The sentences which the sheriff can inflict upon those criminals who are sent first before the police courts are from 3 to 15 or 18 months' imprisonment. After having been once or twice convicted by the sheriff, and received those long imprisonments, the criminal for the next offence is sent forward to the circuit court, the justiciary court, by which he was sentenced formerly to transportation, and now either to transportation or to penal servitude. The effect of that is, that the worst class of criminals only have from time immemorial been sentenced to transportation in Scotland. And consequently it is to be expected that a change of the system by the abandonment of transportation will operate much more seriously in Scotland than in those countries where a less depraved class of criminals receive that punishment.

1957. You have now had two years and a half's experience of the Act; may I ask whether your apprehensions have or have not actually been realised?—Before the Act came into operation, I should mention that I particularly observed the effect of the change which was then going on without any Act of Parliament by the alteration of the practice of the courts, I believe in consequence of instructions or recommendations from the Home Office, substituting in a great degree long imprisonment for transportation. That had been going on for two or three years before the ticket-of-leave system was introduced; and during that time I already saw what has since been very amply confirmed, that, in regard to Scotch criminals at least, the substitution of imprisonment for transportation would have the very worst possible effect. In particular I may mention, that at the Spring Circuit of 1848 there was a very great number of criminals indicted before the circuit judges, partly in consequence of the distress of the times and partly in consequence of the political riots which took place at the time in Glasgow, in which those people were concerned. But, independently of political criminals, there were 117 ordinary criminals indicted; and I was much struck with the number of those against whom it was charged as an aggravation, that they had previously been convicted by the Circuit Court, and sentenced to transportation. Out of 117 ordinary criminals at that Spring circuit, there were 22 who had been sentenced to transportation for less than seven years during the three years preceding; evidently showing that they had been liberated without being in the least degree reformed. There was one instance in particular, which is so remarkable that I should be almost ashamed to mention it, but I am happy to say Captain Smart is here, who will be able to confirm the statement. There was a man of the name of M'Colgan, who was tried for a garrotte robbery in the streets of Glasgow before Lord Cockburn, and received a sentence of 10 years' transportation, with a solemn admonition that it would certainly be carried into complete effect, for a great number of cases of that description had taken place. This was in 1852. Within a year afterwards he was caught within 50 yards of the same place committing a second garrotte robbery, and he was tried and sentenced to 15 years' transportation, with a renewed admonition; and within two years he was again caught within the original place; and then he got transportation for life; and I have heard no more of him.

1958. Upon the whole, do you conceive that the operation of the Act has been satisfactory, or otherwise?—I have examined the list of the persons who have been indicted before the Circuit Court at Glasgow since the year 1852, during which time I think the Act came into operation. In 1852, 12 ticket-of-leave men were tried at the circuits; in 1853, 7; in 1854, 13; in 1855, 12; and in the first half of 1856, which has already elapsed, 19. I should say from what I have seen, that the ticket-of-leave system has had the very worst possible effects in Scotland; that it has sent back the most talented, the most dangerous, and the most formidable class of depredators, and that they are either concerned in the greatest crimes themselves, or that they lead others to the commission of the same description of crimes. They are the centre of all the great crimes that have been committed in Scotland within the last four or five years.

1959. You conceive that you have had such opportunities of information as to justify you in expressing that opinion positively?—Yes. In all cases of serious

Sir *A. Alison*, Bart.

5 June 1856.

crimes, of daring house-breaking, and robberies, and crimes of that description, we find always that ticket-of-leave men are either indicted for them, or that they can be traced by the evidence to have been engaged in them. At the last circuit two men were tried for a most daring robbery, house-breaking and burglary, committed in open day in one of the public streets of Glasgow, with considerable violence. They got into the house by means of false keys, and with an immense stone they broke open an iron safe, and carried away a considerable sum of money. Both of those men when apprehended were discovered to be ticket-of-leave men. But I think that the number of ticket-of-leave men who are proved in courts to be concerned in crime, bears a very small proportion to the number who actually do commit crime, for this reason, that they are not known. I am sure that that must be the case from what I see in my own experience. I have often seen in Scotland, that a man who has received the very heaviest punishment, when he is brought up again for another offence, having got away in some way or other out of confinement, the next time he receives a perfectly inadequate punishment, because he is not known. I recollect particularly one man who was indicted before myself. It was charged against him that he had previously been convicted. On the first conviction there was a sentence of 14 years' transportation by the Justiciary Court. On the second conviction there was a sentence of 14 days' imprisonment by the baillies of Dumbarton. Now, that is an every-day occurrence; and the reason is, that the criminals are not known. And even with regard to the criminals in our own city of Glasgow itself, they are very often not known; their appearance is so much changed, after a year or two of imprisonment, from living so much better, that they really are not known; they go to another town; for example, from Edinburgh to Glasgow, or from Glasgow to Edinburgh, and they are not known at all. A great number of ticket-of-leave men get off with 20, 30, or 40 days' imprisonment from the magistrates, when, in fact, they ought to be transported for life.

1960. Mr. *Deedes.*] You said, "having got away." What do you mean by that?—I do not know how they get away, but I know that they have been sentenced to transportation, and that we afterwards find them in the streets of Glasgow. How they get away, I do not know; but they do appear again, after having received sentence of transportation.

1961. Mr. *Beckett Denison.*] Are the Scotch convicts brought up to any prison in England previously to transportation, or are they kept in Scotland?—They are kept in Scotland for a certain time. At this moment there are about 29 or 30 persons under sentence of transportation, all in prison at Glasgow; but of course the governors of the prisons are extremely anxious to get quit of them, and they are always making the greatest efforts to get them taken away. They are sent up to England after a certain time; but generally there are 20 or 30 imprisoned in Glasgow before they are removed; but they are sent up to England in the end. It is in England that they are all liberated.

1962. Have you any reason to believe that they escape after being brought into England, or do they escape before they come to England, out of Scotch prisons?—I am sure it is in England that they get away. If any one escapes in Scotland, it is immediately the subject of judicial investigation. If any one were to escape in the county of Lanark, I should hear of it immediately; but it is in England that they are liberated, or that they make their escape. I should say they are almost all liberated. I do not know it of my own knowledge, but from the great number that have come back upon us, I am quite sure they are liberated, because the number is so great that it is impossible to suppose that they make their escape merely.

1963. Do you get in Scotland any account of prisoners that have been liberated by the Secretary of State?—Not that I know of. I get none. It is by mere accident that it is discovered whether a prisoner is a ticket-of-leave man or not.

1964. Have you any means of knowing whether a man has been liberated, or whether he has escaped?—No, unless you get it from him in his judicial declaration, or the evidence of some one who knows him. He is examined judicially; if he tells it himself, you may know it, or you may find evidence upon his person.

1965. *Chairman.*] Judging from those examinations that take place, will you inform the Committee what is about the number of persons whom you have ascertained upon those examinations to be ticket-of-leave men?—I should think that 19-20ths of them are ticket-of-leave men, or men that have been liberated

by

by the authorities. Indeed, I should go further, and say, that 49 out of 50 have been liberated by authority, and have not escaped at all. The men who are liberated are generally the worst description of prisoners, for this reason, they are persons of talent and address, who have contrived to carry on a system of dissimulation and deceit in prison, so as completely to mislead the chaplains, and all who report upon them. They are very apt and skilful scholars, and give admirable answers; they are extremely attentive to their religious duties; and they have succeeded in completely imposing upon the people by whom they are surrounded, but the moment they get out, they directly begin again. I remember one instance in particular where a man said in his declaration that his good conduct had gained for him the approbation of the people of the prison. He had got a certificate of good conduct from the chaplain and from the governor, and he was liberated in consequence. The moment he got out it appeared from the evidence that he had gone to his old haunts. He had been 15 days in a state of incessant intoxication, and at the end of that time he committed housebreaking, for which he was apprehended and committed.

1966. Mr. *Beckett Denison.*] If it is correct that 49 of them out of 50 are liberated prisoners, is that quite consistent with what you have previously stated, that great numbers of them escape; my reason for asking the question is, that the statement that a great number of them escape, appears to reflect upon those who have the care and custody of them?—I am glad to have an opportunity of correcting that. When I say that a great number of them escape, I mean that a great number of them are found at large in Scotland after having received sentence of transportation; how they get away I do not know; I only know that they receive sentence of transportation from the courts in Scotland, and that they are found at large a year or two afterwards; but I have no reason whatever to say that a great number of them escape. If what I said led to the belief that there was any negligence on the part of those who had the custody of them, that was not my meaning; my meaning is merely that a great number of them are found at large. Some of them escape, but I believe that the proportion of escapes is exceedingly small compared with the proportion liberated.

1967. *Chairman.*] What should you say is the proportion of those who have come out upon tickets of leave?—Nearly all the persons who were indicted at those different circuits were ticket-of-leave men.

1968. How did that appear?—The sentence against them of transportation is proved by the production of the record of the Justiciary Court; that is quite ascertained; and the fact of their being ticket-of-leave men is generally ascertained from their judicial declaration, or from the evidence in the case, or the ticket of leave being found upon their person; generally from their judicial declaration, because they are brought before the sheriff and examined, and told to say anything they have in their own behalf.

1969. From their judicial declarations and from the tickets of leave being found upon many of them, you are of opinion that a large proportion of the persons you have been speaking of are ticket-of-leave men?—I should say at least 19-20ths are ticket-of-leave men, or at least people liberated by the authorities, who have not escaped.

1970. Lord *Naas.*] Are they often recognised by the police?—They are often recognised by their faces; but sometimes their appearance is so much improved by their better living, and by their more regular life, that they are scarcely known, but they often are recognised by the police; but it is no uncommon practice, in order to prevent their being so recognised by officers who know them, that people from Glasgow go to Edinburgh, and people from Edinburgh to Glasgow.

1971. Mr. *Adderley.*] When you say that so great a proportion of them are ticket-of-leave men, do you mean men holding licences to be at large under the Act of 1853?—Yes; who have been liberated under the authority of the Act of Parliament.

1972. *Chairman.*] Persons who have been sentenced to transportation?—Sentenced to penal servitude or to transportation.

1973. Mr. *John Wynne.*] Have you any means of knowing whether any of those have been discharged after having fulfilled their sentences?—I do not exactly know, but I should think that nearly all have been discharged before they have fulfilled their sentences. If they have served out the time, the sentence is not charged as an aggravation against them; it is only so charged when they are let out before the sentence is fulfilled.

Sir *A. Alison*, Bart.

5 June 1856.

1974. Mr. *Massey.*] Do you mean to represent that a considerable proportion of those persons who have been at large in the manner you have described are persons who have been sentenced to periods of penal servitude under the Act?—No; I do not know whether they have been sentenced to penal servitude or to transportation; I should think most of them to penal servitude; but I cannot express a positive opinion upon that.

1975. Evidence has been given in this room, that with regard to people sentenced to penal servitude, the ticket of leave has hardly been applied except in special cases; have you any knowledge as to that fact?—I cannot answer that from my own knowledge.

1976. Lord *Naas.*] Are many of them men who have undergone a certain portion of punishment in Government prisons in England?—What I mean is this; that men who have been sentenced in Scotch courts to transportation, and have been sent to England, are, before the expiration of that sentence, found at large, and are again tried and convicted.

1977. Mr. *Massey.*] That applies to the period since 1853?—Yes. Before the time of the practical modification of the system of transportation was introduced, the number of returned convicts was extremely small in Scotland, and I should say that there was not one in 20 compared with what there are now.

1978. Mr. *Adderley.*] Is not it an object for a prisoner to pretend to be the holder of a ticket of leave though he may not be?—No; I think those men have a strong interest to conceal it, because they know that if they are discovered to be ticket-of-leave men, it would be an aggravation of their punishment; they would be sentenced to a greater number of years' transportation; for example, if they got 10 years' transportation before, they would get 15 upon being discovered to be ticket of-leave men.

1979. If a man is known to have been previously convicted, is not it an object to him to make himself out to be a ticket-of-leave man, because it somewhat mitigates the charge against him, by proving that he has been a man well conducted in prison?—I think that in Scotland the impression is so strong that the reformation of offenders of that description is impossible, that it would make very little difference. I do not think that any person connected with the administration in Scotland would attach the least weight to the circumstance of a man having got a ticket of leave as any indication of reformation.

1980. Mr. *Beckett Denison.*] Supposing that it was proved that a man had been previously convicted, and that he also was a ticket-of-leave man, would the fact of his having a ticket of leave operate in his favour, or against him?—If I saw a man before me charged with a crime, against whom there was a previous conviction and sentence of transportation, and found that he had got a ticket of leave, the conclusion I would draw would be, that he was a man who had superadded the guilt of hypocrisy to his other crimes; that he had contrived to deceive the governors and chaplains in the gaol, and that therefore he was the most dangerous man that could be before me.

1981. *Chairman.*] Have you any reason to believe that there is a system of manufacturing tickets of leave, or that there are any fictitious tickets of leave?—I have not.

1982. Lord *Naas.*] Could there be any object in it?—I do not know what the object of showing a ticket of leave in England would be, but in Scotland it would only insure an additional punishment to the criminal.

1983. Have you observed any great increase of crime in Glasgow of late years?—There has been an increase of crime in Glasgow since these people commenced coming back to us, but it has rather declined since the war began. The number of serious commitments has fallen down from about 800 to about 700 in Lanarkshire.

1984. You attribute that principally to the effects of the war in taking away men who would otherwise have become criminals?—Entirely.

1985. *Chairman.*] You spoke of the system of transportation as it existed before this Act came into operation. What is your opinion as to the effects of that system?—I think the system that existed before this Act came into operation, if it could have been carried out, was the best system that human wit ever devised for deterring offenders, and for the reformation of offenders. I do not think anything was ever devised for the purpose that was half so advantageous. The misfortune was that it became unpopular, but I think that was entirely owing to a wrong system

system of management of the transported criminals. It might have been with the utmost ease avoided in future.

1986. Are you of opinion that an effort should be made to resume transportation to the full extent to which it formerly existed?—I think that the proper course for the efficient administration of the criminal law is this, that there should be just three punishments, and three only. I do not speak of persons who are guilty of murders, or forgeries, or crimes of that description, which are what I may call detached crimes, committed by persons who are not habitual hardened offenders, but I speak as regards persons who take to a life of crime from inclination or from parentage, or from circumstances as a profession. For such persons there should be three punishments. For the first offence, which is generally committed by boys or girls of very tender years, I would inflict a punishment of eight or ten days' imprisonment, solitary confinement, for no other object but merely to frighten them. For the second offence I would give them a longer term of imprisonment, such as was long enough to have them taught, whether they would or not, some useful trade. With regard to the trade, I would teach them one most likely to be valuable in a distant colony, such as carpentering, tailoring, shoemaking, weaving, and making stockings. Then, for the third offence, I would in every instance transport them. I think that in that way you would give them the only chance they would have of reformation. You would get quit of the criminals, and you would in the end effect a great pecuniary saving to the country, together with a great reformation in its moral character. I recollect seeing it stated in a Parliamentary Report, that between the years 1800 and 1817, 17,000 criminals had been transported, and that of those 17,000, 6,000 at the end of that time had earned their liberty by their good conduct, and had realised among them a property to the amount of 1,500,000 *l.*

1987. Mr. *Deedes.*] When you said that you would for a third offence transport them, did you mean that you would sentence them to transportation for life?—Not for life; I would transport them for such a period, say seven years or ten years, as would give them the means, if they were disposed to do so, of entering upon an honest career in this country; I think that if that was done, there is not one in ten that would ever return; they would live on in a country where they had the means of getting a livelihood.

1988. When you speak of reformation following upon the system of transportation, I understand your meaning to be, that you hardly expect to see that realised by their returning as reformed persons to this country, but that you imagine that they would adopt a reformed course of life in the colony to which they were transported?—I think the reformation of the really criminal, by imprisonment, is impossible in this country; I do not mean of a person who has committed an assault, or even committed forgery, but of a confirmed criminal who has been habitually pursuing this course of life. But I think it is quite possible to reform him in a penal colony, because there he has the means, when he gets out of his penal term, of getting an honest livelihood, and he is free from the temptations of great cities, which are the great nursery of crime.

1989. Mr. *Beckett Denison.*] You have been arguing upon the supposition that transportation is possible. But supposing it to be unfortunately impossible, will you state what in that case you would adopt as the third mode of punishment?—If the mode of transportation is impossible, of course I would agree that you must take to tickets of leave as the only alternative. But I think that transportation is not only possible, but might be rendered in some degree popular, if properly managed. The way in which I think it should be done is this: The early records of New South Wales show that transportation was not only in nowise unpopular, but that it was in the highest degree popular, and it continued to be so down to a recent period. I could point out a vast number of resolutions of public meetings in New South Wales in which they spoke in the warmest terms of the system of transportation as being, in fact, the great pillar of the prosperity of the colony.

1990. *Chairman.*] New South Wales was founded as a penal colony, and then, by regulations which were made, a different class of population was attracted to the spot?—Yes. That was at an early period, prior to 1825. Since that time, I am perfectly aware how extremely unpopular transportation has become. But I am not in the least degree deterred by that consideration from my partiality for transportation. I think that the dislike to transportation which has become so general in our colonies, has been entirely owing to two causes, which might easily be avoided. The first is the substitution of the gang system for the assignment

Sir *A. Alison*, Bart.

5 June 1856.

system. The assignment system was the one under which the colony made such rapid progress, and under which so great a number of convicts were reformed. It may easily be understood why it was so; because a man separated from his associates, and under the charge of a farmer, a colonist, and employed in labour in the fields, has no temptation to commit crime. There are no receiving-houses, and he cannot dispose of stolen goods. Why the assignment system was changed for the gang system I do not know.

1991. Was not the assignment system strongly reported against by Sir William Molesworth's Committee in 1838?—I am aware that the gang system had been, to a great degree, substituted for the assignment system; and there is a period in society when the assignment system will fail. Everything depends upon the proportion between the convicts and the immaculate settlers. There should always be a certain proportion kept between the criminal population and the good population. I should say that there should be four or five immaculate settlers to one criminal. That is the key to the whole thing. In consequence of the rapid increase of crime in the British empire, and the unfortunate circumstance that New South Wales was so far away, and therefore too expensive for ordinary settlers to go to, the proportion of criminals to good settlers became a great deal too large. Therefore the assignment system became unpopular, because there were too many convicts in proportion to the free population. The convicts should not be allowed to exceed one-fifth of the free population. That is the cause why transportation to Van Diemen's Land being so excessive became so unpopular; all the colonies were horrified at the example, and at last it came to this, that the proportion of free settlers in that distant colony to the convict population was nearly three to two; in short, it was nearly one-and-a-half of the convicts. Of course that state of things was the most horrible that could be imagined; but it was owing to this circumstance, that it cost a free settler 25 *l.* to go to that distant colony, whereas to America he could go for 5 *l.*; consequently, while you were sending out convicts to one place to the number of 2,000 or 3,000 in a year, there was no similar number of free settlers going there, and therefore the colony became a perfect pandemonium. But I think the way to manage it is this. You should establish a regulation, that if any colony will take the convicts of Great Britain, the Government will, at the public expense, if enough do not go of their own accord, send out four immaculate settlers, including an adequate proportion of young women, for every one penal convict; and you should also establish a regulation, that the penal convicts are to be employed in public works, *depenses foncières*, as the French call them, which are essential to the progress of the colony, bridges, roads, harbours, and the like, so that the free settlers would have the benefit of their labour. I am quite sure that that would be such a great advantage to the colony that had it, that if it was perfectly established, the convicts would be kept in a small minority, and would be employed in public works essential to the good of the colony, and that the free labourers that went out would find good roads made to their doors by the convicts. The colony that enjoyed these advantages would very soon distance all its competitors, and you would soon have all the colonies of Great Britain petitioning for the establishment of such a system. If that failed, then I would establish a new penal colony in some newly-settled country, just similar to New South Wales. There is room enough in the colonies of Great Britain for 50 penal colonies to go through as many centuries.

1992. Where would you suggest the establishment of such a colony?—I do not possess local knowledge enough to answer that; but we possess the territorial sovereignty of a great part of New Holland, and several islands in the South Seas. There is Norfolk Island, and New Caledonia, and New Guinea.

1993. In establishing such a new penal colony, would you send there nothing but convicts?—No; I would never to any colony send out nothing but convicts. In whatever place I sent convicts to, I would be sure that you have four or five free settlers to every convict; and I would employ the convicts on public works, and hold out to the free settlers, the emigrants from Great Britain, who now number from 150,000 to 200,000 a year, "If you go to this colony, you shall find harbours and roads and bridges and public granaries made to your hands by the convicts, and you will be able to employ yourselves entirely upon your own allotments of land on each side of them." I am sure that such a system would be popular to the last degree.

1994. You would contemplate a system of convict transportation accompanied with and combined with a certain amount of free emigration carried on at the public expense?—Exactly. I contemplate a system of convict penal emigration, accompanied by a certain number of free emigrants sent out at the Government expense, perhaps three to one, if enough will not go of their own accord, in order to ensure the convicts being a small minority; and it would be also accompanied by as large an amount of free emigration at their own expense as could be obtained by holding out to free and voluntary emigrants the great advantages that they would have in going to a country in which great public works would be done to their hands without any trouble to themselves. I am sure that between the two, you would be able to keep the convicts in such a small minority as would ensure their being an immense blessing, instead of their being a curse to the community.

1995. Mr. *Beckett Denison.*] Have you at all calculated the expense of such a system, assuming that the proportion of free emigrants to convicts was as one to four?—Upon that subject I do not possess information from my own knowledge; I only obtain it from others. I see from the newspapers, that parties offer to take out a free settler for about 15 *l.* to Australia.

1996. And his wife?—His wife would be about the same. Taking it at 20 *l.*, and supposing you send out 12,000 free settlers at 20 *l.* a-piece, that would be 240,000 *l.*

1997. What would it actually cost the country to send out our convicts, accompanied by four or five free settlers?—Suppose the convicts on the average to be about 4,000 in a year, then if there were four free settlers to each, that would be 16,000; that would be 20,000 altogether, the expense of which, at 20 *l.* a-piece, would be 400,000 *l.*

1998. Then for every convict you would send out, the cost to the country would be 100 *l.*?—It would; but I think the expense would be extremely well laid out, because, as to the free emigrants, you would transfer people, a proportion of whom at home might be paupers, to a colony that consumes our manufactures to the extent of 7 *l.* or 8 *l.* for each individual.

1999. Are you prepared to say that it would be wise on the part of the Government to hold out such a temptation to the labouring population as would be afforded by the Government sending out for every convict transported a man and his wife, and one or two children, to the colonies for the purpose of getting rid of the convicts out of the country?—I think it would, and for this reason; the emigration last year was about 180,000, but we know that within these few years it has amounted to 368,000 a year. Now, as we are in a state of society in which a large proportion of the population is going away at any rate, and will go, I think it would be an immense object to divert a small part, perhaps a twentieth part, of that emigration into a direction that would neutralize and take away the whole of the objections of the colonies to receiving convicts. As we are losing so many of our inhabitants yearly, at any rate I think it would be money well laid out to make 20,000 of those go to a place where their presence would be of such great advantage to the empire.

2000. Do the emigrants to whom you have been alluding, generally go at their own expense, or at the expense of the Government?—Almost entirely at their own expense; some of them get some small assistance from the Government. But I think if the system I mention was established, the advantages to the colony would be such, that it would very soon be found that it was unnecessary to send out people at the public expense, because the stream of voluntary emigration would turn in that direction, on account of the advantage of having convict labour to do the most essential public works; but as one cannot be quite sure of that, I think the Government should guarantee, in the first instance, that if there were not an adequate number of free settlers, so as to make the proportion of free settlers five to one, they would insure that there should be that number by, if necessary, sending them themselves if there were not an adequate number of free emigrants to keep the convicts in a small minority.

2001. *Chairman.*] Would you have any hope of removing the objections expressed by the colonies which have now discontinued to receive convicts?—I think that in the early life of every colony the system of convict labour is of immense advantage, but the period ere long comes when it ceases to be of advantage. When a colony passes out of its infancy into its major or adult state, then it ceases to be of advantage; of course, therefore, it is possible that from the great progress that Australia has made, many of the colonies have passed the period when convicts are valuable. But there are plenty of other colonies, or

Sir *A. Alison*, Bart.

5 June 1856.

such colonies may be established, to which these convicts would be of the greatest possible advantage.

2002. Then it is not a resumption of the practice of transportation to New South Wales or Van Diemen's Land that you are looking to, but the establishment of new colonies in the way you have mentioned?—I think that if a system were established, such as I mention, and it were officially notified by the Government, several of those colonies, when they came to understand it, would adopt it with the greatest possible alacrity even now. I am sure all young colonies would adopt it immediately. And I think many of the other colonies, if they once knew that they would get an adequate proportion of free settlers for the convicts, would see the advantages of the system very strongly.

2003. Your plan contemplates a certain number of free emigrants going out with convicts?—Yes; I do not say going out in the same ships, but in the same year.

2004. Of course those must be voluntary emigrants?—Yes.

2005. Do you believe that it would be practicable to induce any great number of persons to go out in that kind of combination with convicts?—I think that if the advantages were once properly understood of having the labour convicts for the public works that may be required, Government would have no need to send any free emigrants at the public expense. I believe that they would have tens of thousands crowding to go of their own accord to the colony so benefited. I know that settlers who have come from New South Wales have told me often that the great difficulty that they have to contend with is the want of roads; they can get a piece of land, but they have no means of communication; and if they could only get roads made to their hands, they would make a fortune in a very few years. Now, if you just held out to the colony, you will have roads well made to your hands by the convicts, and you will not be taxed for it, the effect would be immediate.

2006. In your judgment, was it expedient to abolish the sentence of transportation in all cases under 14 years; for instance, sentences of seven years' and ten years' transportation, which were abolished, in fact, by the Act into the operation of which we are now inquiring?—I think it would be incomparably better to abolish the penal servitude, and to go back to seven and ten years' transportation, because you would get quit of the criminals, and put them into a way of doing well for themselves. I do not think that the expense is so formidable a consideration as is sometimes thought. I have seen a statement in the newspapers that the average expense of a convict in the Millbank Penitentiary was 57 *l.* a year, and that after deducting the produce of their labour it was 45 *l.* a year. Now that is nearly one-half the expense which I spoke of as attending the removal of each of the 4,000 convicts, with the requisite number of free settlers. I am perfectly sure that in Scotland every person who receives sentence of penal servitude has cost the country at least 150 *l.* public money, having been generally three or four years confined in prison altogether, and during the period he was out having lived as he best could, by plundering the community.

2007. Mr. *Beckett Denison.*] How would you reduce that cost to the public, seeing that you could not very well transport him, till he had, by his crimes, legally deserved transportation, thereby having, in point of fact, cost the country that sum of money?—In Scotland the difference is this: you would transport him the third time you catch him; he then would only have been once in prison, probably for a period of nine months; but now a man is not transported till he has been five or six, or seven or eight times in prison; and if you add all those periods of imprisonment together, you will find that he must have cost the country what I have stated.

2008. You would, in fact, transport him much sooner?—I would transport him much earlier in his career. In the first place, it would be a great saving of expense, and in the next place it would greatly increase the chance of reformation. The chance of reformation of a criminal offender is very much in proportion to his youth. If he is a young offender, there is a considerable chance of reformation; if he is an offender who has been three or four years in his career, the chance of reformation is almost hopeless.

2009. As your proposal is that prisoners should be transported for the purpose of making roads and additional public works as an encouragement to free settlers following them, is it quite clear that that system might not be adopted, either in Scotland or in England; is the kingdom of Scotland so well served with roads and public works, that 200 or 300, or even 1,000 convicts could not be lawfully appropriated

appropriated to public works in Scotland, thus saving the expense of transporting them to Australia, and saving also the expense of sending out free settlers in proportion to the number of convicts at the expense of the Government?—I have often heard it suggested in Scotland that there might be an island in the Hebrides selected for spade labour, where convicts might be employed at much less expense. I think the objection to that plan is two-fold. In the first place, if they were sent to an island in Scotland, you would require a large force to guard them, it being so near the mainland that the facilities of escape would be great, if not effectually guarded against. In the next place, that would be entering upon a dangerous competition with the free labour of the country, which is a very serious thing; for if you bring the labour of people maintained at the public expense into competition with the labour of persons who are maintained at their own expense, you do injustice to honest men. Then, in the third place (which is the most serious consideration), I do not think that men employed on public works in this country would run any great chance of being reformed, or of becoming good members of society, after they leave their penal servitude. They would just come back again to their old haunts, whether they were liberated in Glasgow, or in Edinburgh, or in Aberdeen, and begin their career again. The great advantage of sending them to a colony is this, that when they are liberated from the forced labour of the Government, the demand for labour is so great around them, that they would get hired at 4*s.* or 5*s.* a day by people to whom the labour is valuable, living in a remote situation away from temptation, and where they have every means and opportunity of doing well.

2010. Are you at all acquainted with the progress which has been made at Portland, and in other Government prisons, with respect to the reformation of convicts?—No; I have no information upon that.

2011. Would you be surprised to find that the parties who have the control of them have stated in this room and in other places, that they are very much improved in their feelings and moral habits by the way in which they are treated at Portland on the Government works and in other Government prisons?—I have no doubt that what those gentlemen in charge of those works say is true, that they do observe a great reformation while they are there. I have seen it myself in similar institutions in Scotland. But I have the greatest doubts whether there can by possibility be produced in an adult, a person above the years of childhood, by any course of discipline that a prison can give him, any real moral reformation; and I think the reason you cannot do it is this: it is founded in the nature of the human mind, that in a prison you cannot give the active desires which are essential to the development of virtuous habits. You can impress them with terror; you can inflict upon them sufferings; you can deprive them of part of their provisions, keep them in confinement, and inflict upon them suffering; but in a prison you cannot awaken the active propensities which are the great stimulus to good; but in a colony those active propensities are developed. Accordingly I should say the distinction between the cases in which prison discipline really does ameliorate the character and the cases in which it does not, just lies here. If the habits of the criminal have been such that the majority of his active propensities are founded upon good habits or good desires, then the imprisonment may do him a great deal of good; and that is what often takes place with a person convicted of an assault, or a person convicted of a forgery. Where a man has committed an isolated act, apart and distinct from his general course of life, then imprisonment, subsequently to the isolated act, excites his apprehension; he sees the consequences of his crime, which makes his former active propensities for good comparatively powerful; but if a convict has been leading a life of depravity, and has never had active propensities for good developed at all, which is the case with 9-10ths of the professional thieves, no length of imprisonment ever can reform him, because while he is in prison, his active propensities cannot be directed to good; he has no reason to wish to amend; and I am confirmed in that opinion by an opinion expressed by Mr. Brebner, the former governor of Glasgow bridewell, who was one of the men who earliest introduced and most extensively practised the system of prison reformation and discipline, and who had for a long course of years, about 25 years, from 300 to 400 persons always under his management. I asked him, "Can you tell me what proportion of criminals you ever knew reformed by prison discipline?" He said, "I can easily tell you the proportion, for I never knew one;" and he added, "I mean that I never knew one who was a real criminal; I have known children, boys or girls, or persons sent in

Sir *A. Alison*, Bart.

5 June 1856.

for casual crime, improved by it, but I never knew any real offender who was in the least better for prison discipline."

2012. Are you aware that although the prisoners are under control in prison, still they are constantly employed on public works?—I am.

2013. Then what would be the difference between this state of things at Portland, and the state of things that would exist with respect to the convicts whom you recommend to be transported, and to be employed in making roads, as the pioneers of a healthy population?—The situation of a gang working at public roads in New South Wales, and of a gang working at the public works at Portland, while they are under the gang system, may be very similar; but when they leave the gang, the situation of the two is widely different, because when they leave the gang at Portland, they come out upon the general community of Great Britain, in which there are from 150,000 to 200,000 able-bodied men annually supported from the poor's rates, showing a great deficiency of employment for able-bodied men; whereas, in New South Wales they would be in a community where there is the greatest possible demand for labour, and where every man who has a strong pair of arms on his shoulders is sure of employment at good wages, and without the temptations of which old cities are full.

2014. You admit that as long as they are absolute convicts, the system would be in each case in a great measure the same?—Very much the same; the difference is when they leave it.

2015. The only difference would be, that when the penal servitude is concluded in the colonies, they would have a greater scope for their exertions than they have in England?—Yes.

2016. But up to that point the situation of the two would be exactly the same?—Up to that point they would be very much the same.

2017. But in order to get quit of them in that manner, you would go to the expense of sending out with those men four free emigrants, in order that the convicts might gradually be absorbed in the colony?—I would send out four free emigrants at the public expense, if I did not find that four free emigrants would go at their own expense. But I think they would go to a certainty, ere long, at their own expense, and that the Government would be at no expense except for the convicts. I think that the advantage of sending the convicts out of the country to a distant colony would be so great, that the Government would make a very advantageous bargain even if they undertook the whole expense. But I am convinced that voluntary emigrants would go in sufficient numbers without the Government sending them.

2018. Are you aware that it has been stated in evidence before this Committee, that several prisoners have asked for transportation as a boon to themselves rather than be set at liberty to return to their own country, being aware of the advantages offered to them by going to the colonies?—I know that that opinion has been expressed by ticket-of-leave men, but at the same time I know that to criminals who have not been transported, the dread of transportation is immense, at least in Scotland.

2019. *Chairman.*] From your long acquaintance with the administration of the criminal law, what do you think of the punishment of transportation as a deterrent with regard to the criminal class?—I think the punishment of transportation is regarded in Scotland with the utmost horror by the depraved and wicked population. I think that those who have been transported, and have practically known the advantages of New South Wales, such as the ticket-of-leave men, or those who have associated with them, often think it is an advantage to be sent to the colonies, because they have the chance of getting free in a country where labour is required. But I know that in the case of the young men, and the young women still more, who have not been sent out of the country, their terror of transportation is beyond anything; and I have seen most decisive proof of this; for when I was advocate-depute there were very often on the circuit cases in which I was called upon to do what is technically called in Scotland to restrict the libel, that is to say, to write on the record a signature, that you depart from the capital sentence, so as to disable the Court from pronouncing any other sentence but transportation. I have often had depraved criminals praying me not to restrict the libel; they would come to me absolutely by their counsel to say that they would rather take their chance of being hanged than incur the sentence of transportation.

2020. Has that happened at a late period?—I cannot say that it has, because these

these 20 years I have not been Crown counsel; but it often happened to myself between 1820 and 1830, when I was Crown counsel. Sir *A. Alison*, Bart.

2021. Of late years has not there been a considerable modification of opinion upon this subject since the gold discoveries in Australia?—Of late years the administration of the criminal law has become a great deal more lenient, and capital sentence is never pronounced in Scotland, any more than in England, except for murder; but even still I see men placed at the bar that when they receive sentence of transportation it is a dreadful blow to them, and they repeatedly make the greatest efforts to receive sentence of imprisonment in their own country rather than transportation. 5 June 1856.

2022. I understand you to be of opinion, upon the whole, that transportation possesses advantages that do not belong to any other punishment, and that it is a great misfortune that we have been obliged to part with it to a certain extent?—I think that transportation was the best punishment ever yet devised, both for deterring offenders, for getting rid of them, and for placing them within reach of the means of reformation. I think that England, by means of its colonies, possesses an advantage in that respect which no other country possesses, and which I know has been a subject of the greatest expressions of envy on the part of writers on social affairs on the continent, particularly Maltebrun, who expresses the greatest surprise that England, which possesses such illimitable powers of carrying into effect the punishment of transportation, should have given it up, and have gone back to the system of galley slaves, which has been found so ruinous by different nations on the Continent.

2023. But supposing that the giving it up was not voluntary, but a matter of necessity, and that we cannot now resume it, I would then ask whether you can make any suggestions for the improvement of the system now established, assuming that that system must, as a matter of necessity, be continued?—I have not paid any particular attention to the reformation of the system, because I was convinced from the beginning that the working of the system of ticket of leave would be such as very soon to convince the country that it must be abandoned.

2024. An opinion has been expressed by witnesses before this Committee, that it is practically impossible to resume the system of transportation; assuming that to be a correct opinion, it becomes our duty to meet the circumstances in which we are placed, and I desire to ask whether you can suggest to us any improvement of the system?—Assuming it to be impossible to transport convicts, I think the best system I can conceive would be to purchase, on the part of the Government, one of the islands of the Hebrides, and to subject it to spade cultivation, or something of that sort. The reason I say an island is, that it would be so easy by an armed steamer going round to prevent their getting away. I think that would be the greatest improvement I can suggest.

2025. So as to make it a kind of prison like Bermuda or Gibraltar?—Yes, where the convicts might be employed by spade labour. For example, there is the island of Islay, which comprises about 40,000 or 50,000 acres, and which might all be brought under spade cultivation. Of course you could employ a large number of people in that way on an island of that extent. The greatest improvements I can suggest, supposing it to be impossible to transport, would be these. In the first place, to acquire one of the fertile islands in the Hebrides; Islay I suggest as one of the best adapted for the purpose, where you might employ for a long course of years as many as 15,000 or 20,000 convicts in spade labour, who might nearly support themselves by such labour. Then the second improvement I would suggest would be that there should be a certain number of officers, like officers of the army, at the disposal of the central government, who should habitually go round from one town to another, and should be able to communicate information with a view to detect and recognize offenders who have been liberated, and are again apprehended. This information is very important, whether criminals are transported or not; because the great difficulty we find is this, that we really do not know very often when they come into our hands who they are; we do not even know whether they were convicted in a neighbouring county. Often it happens to myself that, after I have pronounced a sentence, giving a man perhaps 15 months' imprisonment, the next time he is taken up in the next county, he gets ten days' imprisonment. Therefore, I think it would be indispensable, to the right working of the system, that a certain number of detectives should be habitually employed in going about just to look

Sir *A. Alison*, Bart.

5 June 1856.

at the prisoners in gaol, and, if possible, to be able to recognize them, and to communicate information to the local officers as to who they are. Those are the principal recommendations I would suggest, supposing it to be ascertained that it is impossible to go on with transportation.

2026. Would you retain the ticket-of-leave system, and, if so, are there any modifications in it that you would suggest?—I think that the best thing I could suggest to do with those people would be, after they have received their ticket of leave, to give them the means of voluntary emigration. I would give them 5 *l.* to pay for a passage to Canada. I have often seen that done in my own experience with very serious criminals who were tried for their lives, and who got the means of emigration given to them after they came out of prison. I have been a party myself to raising a subscription to give even the means of emigrating to Canada, and I have heard afterwards that those men got into the back settlements, and that they did well.

2027. You are aware that by the 9th section of this Act, a licence given to a ticket-of-leave man is restricted to the United Kingdom and the Channel Islands: I infer from your last answer that you are of opinion that that restriction should be removed?—I think that the best thing to do with them would be to remove that restriction, and, if possible, to furnish them with the means of emigrating to Canada or America, but I should say that Canada would be the best, because it is our own country, and I would not put the money into their hands. I would purchase a passage for them in a vessel, and give them a small sum to transport them from Montreal up to the back settlements. I think that would be the best thing to do with them, because you would then be putting them in a country where labour is in great demand.

2028. Would you give them a licence to be at large in the United Kingdom, and in the Channel Islands, and in our Colonies?—I think it would decidedly be a great advantage to extend the licence to all parts of the British dominions, and not only so, but I would, if possible, furnish them, as I before suggested, with the means of moving.

2029. There has been some difference of opinion expressed among the witnesses examined before us as to the fourth section of the Act, in which there are certain terms of penal servitude described, and certain periods of transportation; have you any observation to make upon that part of the Act?—The only observation I should make is, that I think the duration of penal servitude is rather too long in comparison to transportation; I think four years' penal servitude is much heavier than seven years' transportation, and eight years' penal servitude is much heavier than 14 years' transportation; I do not know that it would be so if you had the means of giving them employment in the open air, as is done in some places in England; but if they are to be kept, as they often are, in prison (I know they are always kept in Scotland in prison till they are removed to England), then I think four years' imprisonment is a much heavier punishment than seven years' transportation, supposing transportation to be, as it formerly was, attended with out-door labour.

2030. Assuming the system to be that which is adopted at Dartmoor and other places in the country to which convicts go, would you then consider those periods of penal servitude too long?—I think they are too long in this country, because I understand that in the practical administration of the system in New South Wales the period of the transportation was very much abridged by the authority of the Governor. At all events I think that the punishment of confinement in a prison, even supposing they have out-door labour, in this country is a much severer thing than being sentenced to labour in an agricultural colony. It may not be severer than the labour at Bermuda or Gibraltar, where they are employed in fortifications, but it is much severer than 7 or 14 years' service in New South Wales, as it was practically administered.

2031. In your opinion ought a man's conduct in prison to have the effect of shortening the period of imprisonment; in other words, should he have before him the stimulus of hope supplied by the reflection that if he behaves well in prison, he may in that way, to a certain extent, shorten the period of imprisonment?—I think it is certainly reasonable that if a man behaves well in prison, he should get some benefit from it; that if he remains quiet, and is regular and docile in his conduct, and attends to his lessons and to his religious duties, he should know that he will get some benefit from it. The benefit which I think would be of the most service to him, and which would be the most appropriate, would be, if he knew

knew that by a certain period of good conduct he would get a sum of money, such as would enable him to emigrate to Canada after he got out of prison. Then if he was taught during his confinement a useful trade, such as that of a carpenter or a millwright, or a tailor, or a shoemaker, or something of that sort, he would be prepared to become a valuable member of society in Canada, and, so far from being looked upon with horror, would be looked upon as being of great advantage, because he would be taught a trade in prison, far better than he would be generally out of doors; and although I have very little hope of the moral reformation of confirmed criminals in prison, I have a most decided opinion that you may teach them a trade most successfully; and many of them make most skilful artiasns; you see that every day, that you can make them most skilful artisans; but as to their being good moral characters, it is quite a different thing.

2032. Mr. *Beckett Denison.*] Would not the plan you propose indirectly hold out a premium to a man to commit crime, that he might go into prison for a certain time, and be treated well, and taken care of there, with the prospect of being afterwards sent out to some colony, where he might get into a respectable line of life; would not that almost have a tendency to cause parties to commit crime?—I do not think so. I do not think that persons with the habits of the criminal population ever look so far before them as that. I do not think that in general a criminal ever looks forwards for a month, or even for a week. If they can only get enjoyment for the moment, and get drunk, or something of that sort, that is all they care for. They never look forward to the end of a year, most of them not to the end of a month. The terror of a period of compulsory sobriety and forced labour would far outweigh any advantages that are to come at the end of three or four or five years. I do not think it will ever tempt that class of criminals to commit crime. The horror at the commencement would infinitely outweigh the advantages at the end.

2033. *Chairman.*] Looking at the rest of this Act of Parliament, can you favour the Committee with any suggestions for the improvement of its provisions, besides those which you have already given?—I do not know whether what I am going to suggest should form part of this Act, or whether it is more properly part of the regulations of prisons, falling under the jurisdiction of the Prison Commissioners; but I think it would be of great service if the convicts were made aware that a certain proportion of their earnings (although I know that their earnings never amount to the expense of their maintenance), say half, should form a fund which, if they desired it, should, at the expiry of their sentence, furnish them with the means of emigration to Canada. I think that would furnish a little stimulus to them for good conduct. The desire of getting quit of imprisonment is so strong, that it would be an inducement to labour regularly in order to earn the proposed boon as soon as possible.

2034. Does anything further occur to you with regard to the operation of this Act which you think might be useful to the Committee?—I think the three things I have mentioned are all I have to suggest; namely, first, the having an island in Scotland, with a system of penal servitude attached to it, in which the people should be employed in agricultural labour; secondly, the having a certain proportion of their earnings kept as a fund to furnish them the means of emigration; and, thirdly, the having public officers, detectives, in the service of the central government, to go from place to place to detect the criminals, so as to guide the local courts as to the amount of punishment which they ought to receive; I think those three things constitute the only observations which I would suggest with regard to the system of penal servitude, supposing it to be adhered to.

2035. I understand you to say that the mode of dealing with a person sentenced to transportation in Scotland is like that in England, namely, to send him to one of the convict prisons in England, after which he goes through the same course?—The way in which it is done is this: When a man is sentenced to penal servitude in Scotland, which can only be done by the justiciary judges, he is then detained in prison till an opportunity occurs for his transportation; that is the word in the sentence; and he generally is detained two or three, sometimes four or five months. I think at this moment there are either 29 or 39 prisoners under sentence of transportation in confinement in Glasgow who are just kept in cells, of course in strict confinement.

2036. How long are they kept there?—It varies accordingly as the Secretary of State sends down the warrant. I think, in general, they are kept some months

Sir *A. Alison*, Bart.

5 June 1856.

before they are sent away; they then come up to one of the central places here, either to Dartmoor or Millbank, a great number of them to Millbank. But as they are only kept a few months in Scotland, of course there is not the opportunity there of commencing the system of reformatory discipline which is practised in the central establishments in England.

2037. I suppose the Glasgow prison is not like one of those establishments?—It is a very large establishment, but it is not by any means of sufficient size. There are not sufficient cells to keep all the prisoners apart. There are sometimes two, and even three, in a cell, and there are only limited places where they can work out of doors, so that there is nothing but either absolute idleness in the prison, or such labour as can be carried on in a small cell, the labour of a loom, or tailor's work.

2038. Can you suggest any improvement in the first stage of a convict's course of punishment?—I think it is impossible to suggest any. Of course, he should get the best mode of discipline that the prison will admit of; but unless you can extend the size of the prisons, you cannot much improve the system. The theory is, that as soon as he receives sentence of penal servitude or transportation, he is to be sent off immediately. But, naturally, the Government wait till a certain number have accumulated, and then they send down a warrant to remove them all at once. We always find that the most unruly and dangerous characters are convict prisoners sentenced to transportation or penal servitude before they are removed.

2039. Are they mostly convicted of very serious offences?—They are mostly convicted of most serious offences; a great proportion of them sentenced a second time. At the last circuit there was a most daring attempt made to break out of the prison; nine or ten made an attack upon the officers, and nearly succeeded in getting out; it was a very serious battle indeed between the police officers and them. I made an application to the Secretary of State to get those people removed, because they are very unruly, and a subject of great apprehension to the establishment, on account of their extremely daring character.

2040. Mr. *Beckett Denison.*] Has any amount of money been laid out lately upon the prison of Glasgow?—Very considerable; there was a large addition made; 120 additional cells were built about three or four years ago.

2041. But still they are so insufficient in number that the prisoners are put two or three together?—Sometimes they are when they are crowded. The number in Glasgow prison, two years ago, varied from 600 to 700; I think at present it is less. But the governor of the prison is here, and he will be able to state that; I think at present it is about 550.

2042. *Chairman.*] There is no other Scotch prison to which the convicts go from Glasgow?—No; the people sentenced to penal servitude go from Glasgow to Edinburgh, and from there they are shipped off to England.

2043. They go to Edinburgh merely *in transitu?*—Yes; there is a central prison in Scotland at Perth, a building which was formerly appropriated to French prisoners; but that is only for prisoners who are sentenced to a long imprisonment, such as 18 months or two years.

2044. No prisoner sentenced to penal servitude is sent to Perth?—No; they are sent direct to Edinburgh, and then by sea to London.

2045. Mr. *Adderley.*] I understand your opinion to be, that it is unadvisable that any criminal shall come back to the country in which he has committed the crime?—I think so.

2046. You do not object to the mode of provisional discharge in this country, if they are discharged in this country at all?—I think that if they are discharged in this country, the precautions taken are as good as can be devised. I fear that the precautions will be almost nugatory, from the power of dissimulation which prisoners possess; but they are as good as can be conceived in the circumstances.

2047. But you said that you would, if possible, transport all persons convicted of a third offence?—I think so.

2048. Has not every mode of transportation been already tried by this country, and failed?—I am not prepared to say that it has failed. I think the extraordinarily rapid progress of Australia, which is unparalleled in the history of the world, is mainly owing to the transportation to Australia, and is a lasting monument of the wonderful success of transportation.

2049. You are acquainted with the four or five successive modes of transportation which the country has adopted within the last 10 years?—Yes; I know that there have been changes made.

2050. And that each change has been necessitated by the failure of the previous mode?—I am perfectly aware of that; but that was owing to the cause which I mentioned, the penal population bearing too large a proportion to the free settlers.

2051. Are you aware that Lord Grey himself proposed such a plan as that which you have suggested, of sending out free men together with convicts?—I never knew that it had been tried upon such a scale as to put it properly to a test; I never heard of its being actually done. Even if it had failed in the first instance, I should not be in the least discouraged, because in all these instances it requires a certain time to get information of the proposed benefit diffused through the distant part of the population who form the immigrants.

2052. What do you suppose would be the effect on the public views of crime in England, if, for every single criminal transported, there were three times as many honest men sent to the same place?—I do not think it would have the smallest bad effect, because I think that, if people were once made to understand the reason why convicts were sent to that place, namely, that they might be forced to carry on the public works, which were essential to the prosperity of the colony, and that they would be kept quite separate from the free emigrants; that they would be just like a military establishment, to protect them from an enemy; that they were a great civil establishment, to protect them from the evils of poverty or starvation; so far from regarding it as an insult, or an ignominy to have the convicts sent to the same colony, they would regard it as an important advantage.

2053. Are you justified in expecting that the difference in the treatment of the two classes sent out to such a distant place, especially after the multifarious changes in the mode of transportation of late years, would be sufficiently known by the public here to lead them to draw that distinction?—I think that if the public were just once got to understand that this new colony was one in which the public works would be done at the Government expense by convicts, and that the produce of all their own labour would go into their own pockets, they would appreciate it most completely. I am sure they would do so in Scotland.

2054. But as we have it in evidence that transportation is looked upon in England very differently from the manner in which you say it is looked upon in Scotland, should you not be afraid that, besides producing a confusion in the views of the public as to the difference between crime and honesty, there might be an actual encouragement given to crime by honest men and criminals of the gravest class being sent out together, to places to which it was the object of all the lower class to go?—I think that the criminal population are so entirely governed by the passions and desires of the moment, that anything with regard to the future has no effect upon them. I do not think that many of them look forwards to a few weeks. It is entirely the gratification of the moment that they care for. They will not submit to any present sacrifice for future advantage.

2055. Do you see no danger in the punishment next to death being the going to a place to which all people are anxious to get?—Not if the man has to go as a forced labourer, as a convict, not as a free labourer. In the same way many people think it a great advantage to come to London; but there is a great difference between coming to London to be sent to Newgate, and coming to London to enjoy all the advantages of it.

2056. You think that that distinction is sufficiently drawn even by those criminals who have very little thought for the future?—Yes; I think they would understand the distinction perfectly.

2057. The difference between the plan of transportation which you have suggested, and the assignment plan which was condemned strongly by the Committee of 1838 is, that you would have the convicts transported, and first worked in gangs, and then at the conclusion of their period of service on the public works you would have them assigned to private service?—Yes: either assigned to colonists, or allowed, upon the expiry of their service in the gangs, to take service as free men with the colonists.

2058. What period of assignment would you propose in that plan of transportation?—I never went into the details as to that: I think the proper way would be, supposing that there are 2,000 convicts sent out in a year, they should all be employed, in the first instance, in the public works in gangs, and that the most industrious and most regular of them should, at the expiration of a year or two, according to their respective merits, get a ticket of leave, and take service with the free colonists, or even be discharged altogether from the

Sir *A. Alison*, Bart.

5 June 1856.

remainder of their sentence, as used to be the case by liberation from the Government on the old system.

2059. Then, according to your plan, the period of working in gangs would be the only penal part of their time in the colony, after which they would be looked upon as expirys in the colony?—The working in gangs would be the penal period; the advantage of that would be, that they would be compelled to get habits of industry before they were liberated and let loose upon the colony; therefore the colony would have a considerable chance of having reformed men.

2060. But what is the advantage of that work in gangs being carried on in a distant colony; might not your own plan be better carried out by employing the convicts on public works in England, and then sending them to a colony after they are discharged?—The great advantage of sending them to a colony is this, that you can confer an important benefit upon a colony, because the want of roads and bridges and harbours is the great and fundamental want of every colony. At present a large proportion of free labour is absorbed in carrying on those public works, and it would be a greater advantage to the colony if the free labour was all done in their own fields.

2061. Have you any suspicion that transportation stood in the way of emigration of free labourers to the colonies to which the convicts were transported?—I think that transportation has stood very much in the way of emigration to Van Diemen's Land, and I dare say it has also, to a certain extent, to Sydney; but I think that is entirely owing to a proper system not having been adopted; I know that down to 1820 or 1825 forced emigration was considered the greatest possible boon by New South Wales, and there were repeatedly public meetings held, at which the strongest expressions were used of their satisfaction with the system of transportation as it was then carried on.

2062. You know of no other colony but Western Australia that is willing to receive them now?—I know of no other at present who wish to receive them; and I should not think that any colony, not even Western Australia, would be anxious to receive them until they knew that they would come upon a new system, such as the one I have proposed.

2063. With regard to the previous willingness of New South Wales to receive convicts, do not you think that that may be accounted for by this explanation, that a colony founded on transportation would be likely to be willing to receive a supply of labour in any way, and would naturally look to the supply coming in the established way by transportation; but that they would even then have preferred free labourers if they could have got them similarly gratuitously sent to them?—I think an infant colony, under any circumstances, with any amount of free labour, would feel an advantage in having public labour to do the public works, because the great want in all colonies is the making of roads and bridges and harbours. Nobody will give their own servants to do it, and consequently it is not done; and most valuable land lies valueless, because they have no means of communication; I think any colony, whatever amount of free labour goes to it, would be extremely glad to take those convicts, because it would get rid of the great disadvantage under which they labour, namely the want of necessary communications.

2064. Do you suppose that New Zealand would be willing to take transported convicts?—I think that New Zealand would be happy to take convicts upon the plan I have mentioned, to be employed upon the public works. I have heard New Zealand proprietors express an opinion to that effect. I know one who said it would be the greatest possible advantage to them if they could get the public works done by convict labour.

2065. Does it not appear to you that there might be a further obstacle to the colonies consenting to such a plan by reason of their pride having been wounded upon this subject, and of their having now a wholly different constitution, and freer institutions than formerly?—I think there is no doubt that the prejudice against transported convicts is very strong, and that it would take a considerable time to obliterate it. That prejudice, I think, is owing to the causes I have mentioned, particularly to the right system not having been adopted; but I have no doubt that in a very short time, if the thing was properly explained to them, their apprehensions would be entirely removed.

2066. With regard to one of the islands in the Hebrides, what difference would there be between the Island of Islay, as you suggested, and Dartmoor, for instance?—I never saw Dartmoor; but the great advantage of Islay is this: that Islay is a large

a large island, embracing 30,000 to 40,000 arable acres, for the most part uncultivated, covered with heath, and completely adapted for agricultural labour in producing either turnips, or grain crops, or anything else. Therefore you might employ a very large population in spade labour there. I think you might employ 20,000 or 30,000, and it being an island, you might, by having one or two armed steamers, effectually prevent the people escaping.

2067. If it is so much larger than Dartmoor, would you not run some risk of incurring similar evils to those which were incurred in Norfolk Island, from a large number of males living together, leading to a certain description of crime?—That is an evil incident to all such cases.

2068. Do not you think that the amount of crime which took place in Norfolk Island was, in the minds of those who had to look into it, regarded as a weighty argument against any repetition of such an expense?—That is a danger which should be carefully guarded against.

2069. When you talk of giving 5 *l.* for the emigration of a criminal after the expiration of his imprisonment as a practice already adopted, of course you refer to such presents being given by private hands, not out of any public funds?—Entirely by private subscription.

2070. Do you believe that private hands would always be the best mode of giving such means of emigration, as being free from any jealousy which the same action on the part of the Government might excite on the part of other countries?—If you could be sure to get an adequate amount of relief given by private benevolence, I would prefer it; but I despair altogether of private benevolence ever giving anything like that amount; it would be a mere trifle in comparison of what is wanted for the purpose.

2071. Should you yourself object, speaking as a Scotchman, to Canada reciprocating the plan you have suggested, by sending their prisoners to the Highlands of Scotland?—I think that is exactly the proper way to put it, because I am clear that the system of reciprocity is the one to be adopted in all cases: and I say, show me an equal extent of good land in the Highlands of Scotland that may be cultivated with as much advantage as the vast extent of land in Canada, and I should be too happy to see convicts from Canada sent over to cultivate it. The inhabitants of the Hebrides are not so industrious but what we could receive an addition to them from many quarters.

2072. Mr. *Ker Seymer.*] Can you state the circumstances under which a remarkable offender whom you mentioned in the beginning of your evidence was at large in Glasgow, after a sentence of ten years' transportation?—Captain Smart, the governor of the prison, will be able to give the details; but my impression is, that on one occasion he made an escape, and that upon two occasions he was liberated by the authorities.

2073. You have stated that during the last two years crime has decreased in Glasgow?—I make a return every year to the Home-office of the number of criminals committed in Lanarkshire; I think that it was about 100 less last year than two years before.

2074. And it has been larger during the period under which the ticket-of-leave system has been in force?—Yes, except during the war.

2075. You stated that the ticket-of-leave system remained the only alternative in the absence of transportation; will you be good enough to explain what you meant by that answer?—I am not aware that I said that the ticket-of-leave system was the only alternative; I think that imprisonment of some kind is the only alternative; you must have some punishment; and if you have some punishment, you must have some mode of limiting it, or deviating from it, in the event of good conduct.

2076. Do you mean this, that the sentences under the system of penal labour would be of such a length that you would not in all cases think it right to carry them out?—I think that, comparing the periods of penal labour with those of the old transportation, the period of penal labour is too long; a punishment of four years' penal servitude is much heavier than seven years' transportation.

2077. Do you mean that, under the system of penal servitude, it would be necessary to have sentences which would be too heavy in point of length of imprisonment to inflict upon persons who behaved well in prison?—I think so; I think that certainly it is desirable that in all cases when sentence of imprisonment is inflicted, a prisoner should have some hope of having it shortened by good

Sir *A. Alison*, Bart.

5 June 1856.

conduct and regular industry, and therefore the ticket of leave, if you adopt the system of penal servitude, is a very proper limitation of it.

2078. Mr. *Deedes.*] In one answer which you gave, after speaking of your preference for transportation, you said that if that were given up, you must resort to tickets of leave; was it with the object of having the means of affording hope to a prisoner under a penal servitude that you stated that?—I think that if you give up the system of transportation, the only alternative is to inflict sentences of imprisonment; and when you do inflict sentences of long imprisonment, the punishment is so very great in the event of its being carried to its full extent, that it is indispensable to have some mode of limiting it analogous to tickets of leave.

2079. Did you not afterwards qualify that by saying that sentences of penal servitude might be carried to a greater length if the convict could be employed in out-door labour?—My statement that the period of four years of penal servitude is a heavier punishment than seven years' transportation, is upon the supposition of their being confined in the establishments of our country; but if they could be sent abroad, it would be a different thing altogether; then you could not do better than have periods of 7 years' and 10 years' and 12 years' transportation, it being understood that the governor of the colony would have the power, in the case of good conduct, of abridging it.

2080. *Chairman.*] Or if, instead of being sent abroad, they were so imprisoned here as to give them the advantages of labouring in the fresh air, that would equally remove your objection to that extent?—Yes, that would alter it altogether; it is four or eight years' confinement in prison that I think is so serious a punishment.

2081. Lord *Naas.*] Do you not think that the present uncertainty of punishment in regard to convicts operates very disadvantageously?—I think it is the most disastrous thing possible at present; the entire uncertainty of criminals, sentenced to transportation or penal servitude, when they leave the bar, whether they will be kept in prison four, or six, or eight years, or whether they will be set at liberty in six months.

2082. So that no man knows what the amount of the sentence will be?—The criminals now that receive sentence of penal servitude have not the least idea what the punishment will be; they are told by the judge that it will be carried into full execution; and they go away from the bar with the sanguine hope that before the year is over they will be out of prison.

2083. Do you think that that fact has operated disadvantageously in removing the deterrent effects of the old sentence of transportation?—Holding as I do that certainty of punishment is the great circumstance which deters from crime, I think the present uncertainty is reducing the administration of the criminal law to that state of deplorable uncertainty in which it was 30 years ago, when so many crimes were capital, and the sentence was so seldom carried into execution.

2084. Do you think that if it was laid down as a rule that every person should have, by good conduct in gaol, an opportunity of reducing the term of his sentence, that might still operate very much in the same way that the present system does?—I think there is no doubt that anything that reduces the duration of the punishment, or the severity of the punishment, after the sentence is pronounced, must have a great effect in producing uncertainty in the minds of prisoners as to the sentence; but although that is an evil, I think that it is so very important to hold out to criminals the prospect of reformation, and the prospect of some advantage to be gained by reformation, that it is well worth undergoing that evil for the advantage of holding out the prospect of moral or industrial improvement to the prisoner.

2085. Do you think that a great incentive to good conduct in gaol might be held out by a proper system of gratuities on the expiration of the sentence, and even going so far as offering them, in cases of very good conduct, a free passage out of the country?—I think that nothing would operate so strongly upon a criminal in prison as the prospect of abridging the duration of his sentence. The habit of criminals is to look so little to the future, even when they are becoming to a certain degree reformed, that any prospect of remote advantage to be gained, when the imprisonment is at an end, would have comparatively small effect in improving them, compared with the advantage of abridging it in the meantime.

2086. How would you guard against the evil that you mentioned when you stated that in your opinion the most hardened criminals obtain the most easily a remission

remission of their sentence, because they are generally talented men, and because they are able to deceive the authorities of the gaol better than less expert criminals?—I think that the evil of the dissimulation employed by criminals is an inherent evil, and that the present system of proceeding, upon the reports of the chaplain and the schoolmaster, is inevitably liable to the greatest abuse. On that account I think that the best way to judge of the real reformation of a criminal would be, not so much from the report either of the chaplain or of the governor, as from the amount of work that they put out of their hands; because if a man really works, and puts a great deal of work of the trade in which he is employed out of his hands, that is a decisive proof that he has acquired at least habits of industry and habits of skill; and though I think the power of reformation is very small at present in gaol, yet the power of giving habits of industry is great; and there are no people who make such good workmen as some of the most depraved people; therefore when I say that the power of liberation should be given when a man has shown that he has acquired industrial habits, I would do it for this reason, not because I think that because he has become a good workman he is a reformed man, or a good man, but I would think that, however bad he may be, he is at least a skilful man, and that if he went to a distant colony with this power of skill in his fingers, whatever he might have in his heart, he would have the means of becoming a respectable member of society; and that you might open in his mind the prospect of ameliorating his condition, because you have put into his hands a power enabling him to effect it.

2087. You would look to the amount of manual labour which he has actually performed in the gaol as a much more proper test of the abridgment of his period of penal servitude, than any representations which he may himself make to the chaplain or the governor?—Decidedly; because there is no dissimulation in the amount of work which he may put out.

2088. But still you are of opinion that the tests by which a prisoner can effect the abridgment of his own sentence should be very sparingly and very carefully used?—I think very sparingly indeed.

2089. The test of the quantity of work is the one recommended by Captain Macconochie?—Yes.

2090. You said that in case transportation should be found impossible, you would propose to take an island on the coast of Scotland, to be appropriated to criminals; have you turned your attention to what class of criminals you would send to that island, whether they would be men sentenced to the longest sentences, or men sentenced to the shortest sentences, who might be considered to afford more hope of reformation?—I think that the best men to send to an establishment of that kind would be men of the least depraved habits, and men accustomed to agricultural labour. I do not think there is much good in sending professional thieves from a great town, who would be a long time in acquiring habits of agricultural labour, and who are generally so depraved that there would be little hope of reforming them: but there are many criminals (for example, poachers, and people who have been accustomed to a rural life), who might be made useful members of society.

2091. Then, would you select them rather with reference to the mode of life which they had before pursued, than with reference to their character?—It would require considerable labour to do it; but I think the best way would be to select those whose characters are the least depraved, and whose habits of rural industry were the most confirmed.

2092. You would not contemplate sending to such establishment as that men sentenced to transportation for life, and whose return to society would be thought dangerous?—I would, if possible, send them out of the country; they should be either sent out of the country, or sentenced to imprisonment for life. But the establishment I allude to would be useful for rural criminals who had fallen into a scrape, and who had got a sentence of transportation, without having been thoroughly depraved by the habits of city life.

2093. Mr. *Massey.*] If the colonists in Australia were ever so willing to receive convicts now, do you think that, since the discovery of the gold fields there, it would be wise to send convicts to those colonies?—It would never do to send convicts to the countries of the gold fields, because it would be just sending them to a mine of riches; but from the immense extent of Australia, nearly as large as Europe, there might be many places found where there is no gold, and whence they could not get to the gold places.

Sir *A. Alison*, Bart.

5 June 1856.

2094. Do you think that they are sufficiently acquainted with geography, to draw the distinction between one part of Australia and another?—They are generally well informed upon anything which immediately concerns themselves. But if there were any difficulty on that account in sending them to any part of Australia, then I think it would be better to send them to some other island, to New Guinea or New Caledonia.

Mr. *James Smart*, called in; and Examined.

Mr. *James Smart*.

2095. *Chairman.*] WHAT office do you hold at Glasgow?—Superintendent of Police.

2096. How long have you been in that office?—I have been in that office seven years; I was in the police establishment, however, as a district superintendent for about 17 years at Glasgow, and in the Metropolitan police as a constable before that.

2097. Has your attention been turned to the subject of tickets of leave given under the Act, the operation of which we are now inquiring into, for abolishing transportation in certain cases?—It has.

2098. In your judgment, has the result of the system been successful or otherwise?—I think it has not been successful, nor do I think it has had a fair trial or a fair chance.

2099. Do I rightly understand you to say that the time has been too short to admit of your forming a judgment upon the subject?—No; but from the state of the police in Scotland, and also in many parts of England, it was unsuitable and improper, in my opinion, to allow so many parties to go at large, having nobody in many parts to look after them.

2100. Will you explain why you think it was wrong?—In the first place, while in Glasgow, there is a very large police establishment, amounting to between 600 and 700, in the county of Lanark: from the south side of our bounds up to Dumfriesshire there is not a single police constable, not a single party to look after ticket-of-leave men, or anything else.

2101. Are the police exclusively those of the city of Glasgow?—Except the police in the county of Lanark, kept up by the ironmasters in the neighbourhood of Airdrie; and in the neighbouring county of Renfrew, to the south and west of us, till within a few months, there was no police constable except within the burghs.

2102. What is the effect of that state of things with regard to these ticket-of-leave men?—The result of that is, that ticket-of-leave men find their way into Glasgow, no intimation having been made either to the sheriff of the county, or to the Lord Provost of the city, or to the magistrates of Glasgow, or to the police. Dozens of them turn up in a night. They are found in certain houses in Glasgow known to be bad; but no intimation is sent before them; we have no notice of their arrival at all.

2103. Are they persons who are altogether strangers?—Very frequently strangers come amongst us; parties we do not know; parties who have not been transported from the city of Glasgow.

2104. You say they are ticket-of-leave men: how do you know that they are so?—We know that they are ticket-of-leave men, because many of them admit that they are so, and we have taken other means of ascertaining it from their associates, and the parties with whom they were lodging, and so on, and we have found, besides, tickets of leave in their possession frequently.

2105. What number have you of those men at Glasgow?—A very large number. We have had sometimes of male and female parties in Glasgow probably from 70 to 80 at a time, that is, as many as that who were known to us; but I have no doubt there are a good many of them that we do not even know of.

2106. There is that number at least?—That number at least. Now, to have given the ticket-of-leave system fair play, there should have been first organized a proper police over the whole country.

2107. Will you explain what difference that would have made, in your opinion?—There would have been a police to have counteracted their operations, which has not been the case.

2108. Do you mean that communication would have been more easy among the police?—Communication would have been easy amongst the police; and if those parties were found in Glasgow returning to their old practices, we should have

have had police at various other towns to communicate with, and should have been able to put them on their guard against their operations.

2109. Do you yourself receive intimations of persons coming back to you upon tickets of leave who are returned to Glasgow?—We receive no intimation at all in any case, except in one case only, an exceptional case, which occurred lately, in which intimation was sent to the sheriff, or to the procurator fiscal, intimating that a prisoner, mentioned by name, had been liberated, and that his ticket of leave extended to the whole of Scotland except the county of Lanark.

2110. Where did you receive that intimation from?—I think from the Procurator Fiscal's Office; but that intimation came from the Secretary of State's Office.

2111. Do you know whether it is the practice to inform any of the officers in Glasgow, if not yourself, of the return of persons under licences to Glasgow?—I know that the Lord Provost and the magistrates of Glasgow are not made aware of it; and I know that the procurator fiscals, who have the management of the prosecution of cases of crime in Glasgow, are not made aware of it, and the sheriffs know nothing of it either, so far as I am aware.

2112. So that your acquaintance with the subject is only accidental; how is it that you knew of them?—I have felt great difficulty with respect to strong young fellows who were brought into the police office, well fed and well clothed, who had been picked out amongst bad females of the town, and who were brought in with resident thieves. Great difficulties were experienced by the police in ascertaining who they were. They do not carry their tickets with them, and it was not till they were arrested that you could ascertain who they were.

2113. In how many cases have you found the ticket upon them?—Not in many cases. I have ascertained from a good many of them, when interrogated upon that point, that they regard the ticket of leave as a badge of disgrace, and that the first thing they did was to burn it.

2114. On a small proportion of them only have you found the ticket of leave itself?—Very few.

2115. Have you in a considerable number of cases learnt, in the course of judicial proceedings, that the men were ticket-of-leave men?—Yes, a considerable number.

2116. You said that you also received information in conversation?—Yes, from themselves; and even some of them called at the office, and reported themselves. I recollect one case in particular, a man named Muir.

2117. Under what circumstances was that?—He had been liberated at half time. He was a celebrated chain dropper in Glasgow.

2118. What is that?—It is a practice that was prevalent in Glasgow, of having a fine gilt guard chain; one party goes along the road, and he drops it; another picks it up, as if a stranger; a third values it at 3 *l.*, or 4 *l.*, or 5 *l.*, and they get a simpleton to advance them two or three sovereigns upon it. Muir was liberated from the hulks at Woolwich, and he heard of my promotion to the head of the police at Glasgow, and he called to congratulate me upon it.

2119. He told you he had got a ticket of leave?—Yes; he showed me his ticket of leave.

2120. Do you know anything amiss about him afterwards?—I had to apprehend him in the course of three months, and send him back where he now is. He has got six years' penal servitude for coining bad money, a new species of crime.

2121. Mr. *Adderley.*] Where did he come from?—He was a native of Glasgow, and he was convicted at Glasgow.

2122. Where is he imprisoned?—I think at Woolwich.

2123. *Chairman.*] Are many of those persons natives of Glasgow, or persons who have resided at Glasgow before?—A good many of them.

2124. Is it generally known that they are ticket-of-leave men?—When I find strangers of that cast in Glasgow, of course I set to work to discover who they are; and we succeed pretty often in doing so.

2125. When a man is conducting himself in a suspicious manner, then you institute inquiries of that sort?—Only then. If a man is working, we do not institute any inquiries about him; but when he is found in bad company in improper places, then inquiries are made, not otherwise.

2126. Suppose that to your knowledge a man has been convicted before, and that he has got out upon a ticket of leave, and the man comes back to Glasgow

Mr. *James Smart.*

5 June 1856.

and works at some kind of trade, would the police make it known to the public in any way that that was a ticket-of-leave man?—No, they would not.

2127. Would they do anything that might have the effect of preventing that man from going on earning his livelihood?—No, very much the reverse; I have frequently invited them to come back to me if they were in any difficulty, and told them I would assist them to get lodgings; I have done that repeatedly, to prevent their getting into bad company.

2128. You would discountenance anything of the opposite kind, such as has been just mentioned?—Decidedly.

2129. Do many of them succeed in getting work again?—Not many of them; a good many of them have made the attempt, and a good many of them have not succeeded; a few of them have tried hawking salt and whitening; the more common sort are prowling about through the country; and some few of them are making a living, but the major part of them have failed.

2130. Then they are reduced to a state of destitution?—They are reduced to a state of destitution.

2131. Are you speaking now of persons who have come out with licences under the Act of Parliament, into the operation of which we are now inquiring?—Yes.

2132. You understand, that I mean the Act passed in 1853, by which transportation was abolished in certain cases, and penal servitude substituted, together with the system of tickets of leave?—I understand that perfectly.

2133. Is there any part of that system which you think is capable of improvement, and upon which you can give us any suggestions that will be useful?—I have already stated that the local authorities are not placed in a proper position by reason of their not getting, through some confidential officer, such as the sheriff of the county, an intimation that the parties are coming, and how they are to be treated by the police.

2134. What would you recommend to be done?—I would recommend that the sheriff of the county should receive from the Secretary of State, or from some proper officer, a return of every party that is liberated who has been convicted in his county, stating shortly also the conditions upon which the convict has been so liberated, whenever a person is set at liberty, and sent back to the county.

2135. Suppose a person comes out, and is sent back to the county in which he has been convicted, you propose that you should receive an intimation from the Secretary of State's Office that he had been so released?—Yes.

2136. Would you suggest beyond that, that in the case of every prisoner released, there should be a communication to all the heads of police through the country that such a man had been discharged?—I do not know that that would be necessary. We frequenty do find, for instance, that these men have left Glasgow, and gone to Edinburgh; and then a communication should take place between the sheriff of the county of Lanark and the sheriff of the county of Edinburgh, or the heads of the police, that in case the party may be following a lawful employment, he may not be interfered with, and that if the contrary, he should be watched.

2137. You would recommend that a system of intercommunication between the different heads of police in different parts of the country should be kept up?—Yes.

2138. Would you have all that managed by some central authority?—Through the sheriffs.

2139. And that there should be instructions to that effect given to them all?—Yes; a few simple rules from the Secretary of State's Office would do the whole thing.

2140. What kind of rules?—Possibly just what I have suggested now, that when a man is liberated, word should be sent to the sheriff of the county in which he is liberated that he is at large, and that he is going to reside at Glasgow. Then, if he follows his lawful occupation, neither the police nor anybody else should interfere with him; but that if, on the contrary, he does not get into lawful employment, they are to be put on their guard.

2141. You suggest that some regulation of that kind should be issued for the general government of the police?—Yes.

2142. Is there anything else that you would suggest?—Were it possible for the Government to discover some other method of disposing of parties than sending them back to the scene of their conviction and disgrace, I think it would be an improvement.

2143. Supposing

2143. Supposing the man thinks that his best chance is in that place, as being his native town, or the town in which he has resided; would you have the Government forbid altogether his going back to the same place, or would you think it better that they should exercise a discretion about it?—They should exercise a discretion. I know a great many parties who have come back to Glasgow who have got into employment, and who are following a lawful employment. But those were not of the class who have gone through the *curriculum* of the police courts, the sheriffs' courts, and the justiciary courts, and who have committed every sort of offence. I know a banker who was convicted and sentenced to transportation at Glasgow, and was sent up here, and he got away in some four or five years' time, and is now in Glasgow doing well again. I know a forger also who got liberated, and who is following a lawful occupation; and I know several other parties.

2144. Do you know many cases of that kind?—Not numerous; but there are a number of them.

2145. Can you give any idea of the proportion which they bear to the whole number of criminals who have come back?—A very small proportion. The principal part of the criminals transported from Glasgow are almost hopeless, from the numerous convictions, and from the short imprisonments which they have undergone in the police courts, and the lengthened imprisonments which they have received from the sheriff and jury; and frequently the justiciary courts have sentenced them to long periods of imprisonment, even before resorting to transportation. The cases that come from those quarters are almost hopeless.

2146. When a man is convicted of a transportable offence with you, we understand that he is imprisoned for a time in the gaol at Glasgow?—He is imprisoned for some time previously to his conviction. We have only three courts in a year in Glasgow; so that if a man is apprehended even during the sitting of the Circuit Court, he may require to be imprisoned four months before he is tried; then, after trial and conviction, he possibly may be another month or six weeks in prison before it is convenient for the Government authorities to remove him.

2147. What is the longest period they ever remain in prison in Glasgow after conviction?—I cannot tell. I have known them a couple of months. The governor of the prison will be able to state that.

2148. As you have been concerned in the administration of the criminal law during so many years, have you formed an opinion as to how far it would be desirable to resume transportation, if it can be done?—I am of opinion that transportation is the best punishment, if it can be done.

2149. Did you hear the evidence of Sir Archibald Alison upon that point?—I did.

2150. Do you concur in the opinions which he expressed, as to its having a greater deterring power than any other punishment?—Yes, I do; it answers the two great ends of punishment better than any other mode. I think it would deter our Scotch criminals more than penal servitude; and I think more of them would be restored to society, as good members, by it.

2151. But supposing that it is impossible to find any penal colony to which they could be sent, the next thing, of course, is to consider in what way you can improve the system that is left; can you give the Committee any suggestions for that purpose?—That is a very important point; I should say, that while long periods of imprisonment, as far as I have seen, have signally failed (that is, confining the parties within the walls of a prison, and working them there), there is plenty of waste land in Scotland, where a few hundreds, or a few thousands, of criminals might be profitably employed, and where the discipline which they would undergo in learning agricultural pursuits, such as planting and digging, would make them valuable servants for any colony after their period of probation had expired, and where they could go of themselves.

2152. With regard to the police, the suggestion you would make is, that there should be a more perfect means of communication between the different heads of police?—Yes; there would require to be police in every county and in every burgh in Scotland, which there is not.

2153. Is there generally throughout Scotland a county police?—A number of the counties in Scotland have adopted a rural police; but there is no compulsion on any county to adopt it; and even some of them, after they adopted it, did it on such a miserable scale that it is worth nothing. In the county of Renfrew, for instance, a large manufacturing county, with a very large population, they have only 12 or 13 policemen scattered over the whole of it.

Mr. *James Smart.*

5 June 1856.

2154. Are you of opinion that an improved police, and an improved system of communication, established under some such regulations as those you have suggested, would have the effect of very much reducing the evils of which you have spoken?—No doubt of it.

2155. Have any further suggestions occurred to you upon this subject?—No other.

2156. Mr. *Adderley.*] Have you any notion of the number of persons of whom you have been speaking who have come to Glasgow with tickets of leave?—I have a list here of perhaps some 60 or 70 of them who are known to be in Glasgow. I should say, that for the last two years, the number coming and going is seldom below that.

2157. Have you any idea, within 100, of the number that have come to Glasgow with tickets of leave since the passing of the Act; do you suppose that there are as many as 500 men who, since the year 1853, have come to Glasgow with tickets of leave?—No; I should not say 500. There have been 61 re-transported. Perhaps four times that number have been in Glasgow.

2158. *Chairman.*] Those 61 were ticket-of-leave men?—Yes.

2159. Mr. *Adderley.*] Those men whom you estimate roundly at half 500 must have received sentence before the Act of 1853?—Before the Act of 1853; but there is this important remark, that before the Act of 1853 was passed the Government were acting, to a considerable extent, on conditional liberations in the year 1852.

2160. Do you count amongst the number you are now talking of any of those who received conditional pardons before 1853?—In saying that 61 ticket-of-leave parties have been transported, I should explain that there are 12 of those that were transported in 1852.

2161. Do you mean that they have received a conditional pardon since, or have all those to whom you allude received licences under the provisions of the Act of 1853?—Those 12 of course could not have received licences under the Act of 1853, because the Act of 1853 was not passed at the time.

2162. *Chairman.*] They were under sentence of transportation, and liberated?—They were under sentence of transportation and liberated; and they were found in Glasgow, and re-convicted before the passing of this Act.

2163. Mr. *Adderley.*] Then some of the men you have been speaking of as being at large in the city of Glasgow were not holders of licences under the Act of 1853?—Not those 12.

2164. May there not be more than those 12 of the number you have been speaking of who had not received licences under the Act of 1853, but who have been at large under conditional pardons in other ways?—It is perfectly possible.

2165. Therefore the remarks you made do not specially apply to the Act of 1853?—Not as to the whole number.

2166. *Chairman.*] To what proportion of them do your remarks apply?—Taking the convictions as the criterion, there are a fifth part, 12 of them who were convicted a second time before the Act of 1853 came into operation.

2167. Mr. *Adderley.*] The general tenor of your remarks is against any system of returning criminals to the place where they committed crimes, not against the special provisions of the Act of 1853?—No.

2168. As far as regards the special provisions of the Act of 1853, would you liberate some of those men before the expiration of their sentence for good conduct under licences to be at large; do you object to those licences as far as they give a surveillance over prisoners after their discharge, or would you prefer that they were discharged in any other way?—I would prefer that the police, or some authority connected with the county or city, should know of their coming home, so that they might be properly treated, and not interfered with, and that there might be an eye kept over them in case of their resorting to crime.

2169. Have you had many cases of parties being committed again, by Her Majesty's licence being withdrawn?—We have not had many cases of that sort in Glasgow; we have only had some three or four licences altogether withdrawn.

2170. With regard to the police having so much information given to them about these parties, do you consider that there is no danger of a person being so dodged by the police, that he would almost find it impossible to get employment again?—I think there is more danger from the system at present, from nobody knowing who they are; I think the greatest danger exists under the present circumstances, and that would be obviated to a great extent were proper instructions given to the heads of the police; and they would take care that the officers did not interfere improperly or unnecessarily.

2171. Do not you consider that a man would be not only degraded in his own eyes by knowing that the eyes of the police were upon him, but that he would be a marked man among the inhabitants of the town where he lived?—I think the police could take sufficient charge of these parties without the public knowing anything about it.

2172. I understood you to say, that the instant a man comes who is suspected to be a ticket-of-leave man, every inquiry is made to find him out?—If he is found in bad company, or found in an improper house. If he goes into the house of a resetter (a resetter is a receiver of stolen goods), but if a man is found working on the railway, or working on the street, if he is found working amongst the police scavengers in cleaning the street, there is not a policeman in Glasgow that would speak to him.

2173. Did all those supposed ticket-of-leave men at Glasgow come originally from Glasgow?—Some of them are parties who come back, but it is not invariably the case; we had a visit by one from Edinburgh the other week, and one from the county of Fife, two liberated convicts who committed a great many house-breakings with us; but a great majority of the parties who come back to us were sent from Glasgow.

2174. A great many of them are men who committed their crimes in Glasgow?—Yes.

2175. Where have they generally been imprisoned in the meantime?—If youths, they have undergone a course of probation at Parkhurst; and, if adults, some of them have come from Pentonville, and some of them have been at Millbank, and some at the hulks.

2176. Mr. *Ker Seymer.*] You stated that several of those ticket-of-leave men have endeavoured to obtain a livelihood, and have failed; can you state under what circumstances they have endeavoured to obtain a livelihood?—Their old associates got about them possibly, and it became known who they were: their old associates are frequently the first to give information as to who they are; then, of course, the tradesmen in the factories, or the workmen even on the road, will not work with them.

2177. Then, in many cases, it was not from their own misconduct that they failed to get a livelihood?—I have no doubt many of them have done all that they could to obtain employment and to get a living; but the difficulties are very great in a city like Glasgow, where an honest man has difficulty sometimes in obtaining employment; and, of course, the difficulty for a man of stained character must be much greater; we have in Glasgow a reformatory school; it was the first of the kind in the kingdom for boys; the House of Refuge is situated out of the town a little way; they have two or three acres of ground about it; and the stoutest of the boys are taught to plant potatoes, and to grow cabbages, and to cut wood; and after they have been there two or three years, they have saved 5*l.* or 6*l.* each (there is a savings bank connected with the establishment), and go out to Canada as free emigrants.

2178. Mr. *Adderley.*] Would you suggest that the Glasgow criminals discharged from Pentonville or Woolwich, or the hulks or Portland, instead of being sent back to Glasgow, should be sent elsewhere?—Yes; for instance, a great many convicts were liberated from Bermuda; now there were plenty of them that had 8*l.* and 10*l.* coming to them at the time, which would have been sufficient, had they been liberated at Bermuda, to have taken them to some of the neighbouring colonies, where they could have got plenty of work, because they had hard labour at Bermuda; they were taught stone-cutting, and they would have been valuable servants in some of the other colonies; they would have gone of themselves if they had been allowed, but they were all brought back here.

2179. Have you ever thought of any plan (supposing there should be no colony willing to take them) by which they might be sent, not to Glasgow, but to some other part of the United Kingdom, where work might be found for them?—I think there might be an improvement with respect to the manner in which the money that is coming to them is given to them; the liberated convicts generally have something coming to them, perhaps 5*l.* or 7*l.* The rule pretty generally is, that before the gratuity is paid to them they must produce certificates from some party in Glasgow, or wherever they are sent to, that they have been following an honest occupation for three months. Now, I think it would be an improvement not to send in every case the parties home, because many a clever fellow, with a

Mr. *James Smart.*

5 June 1856.

five pound note in his pocket, might be able better to make a living in England or in Ireland rather than in Glasgow, where he has disgraced himself.

2180. In that case would you give him his gratuity, and let him go where he liked?—If he has undergone a proper course of probation I would give him his five pound note in his pocket.

2181. Has not it been found that the consequence of such a system was, that the man would spend the 5*l.* in riot, and be thrown upon his own resources again; was not that the reason which led to the plan of the gratuities being sent by post-office orders to certain places?—I have known many instances, such as you mention, where they have spent the money in that way; that is a point to be dreaded, no doubt.

2182. Mr. *Beckett Denison.*] You said you were in the metropolitan police before you went to Glasgow; are you able to form any judgment as to whether the population of Glasgow is of a more criminal or of a less criminal character than an equal population in London?—I do not think they are any worse.

2183. You think there is not much to choose between them?—I think not.

2184. Is a ticket of leave of any use to a criminal?—It is a disgrace only; it is of no use to him.

2185. Is it not injurious to the man whenever it is produced?—No doubt it is whenever it is produced, as has been already stated by our learned sheriff; if he commits a crime and is brought before the supreme court for that crime, and convicted, if he has a ticket of leave, it would send him off for life, or for 21 years, instead, very likely, of his going for seven.

2186. You said that about 61 prisoners have been re-transported at Glasgow, and that there were about four times that number that have come back with tickets of leave?—I said so, but on further explanation it appears that 12 of those 61 were re-transported in the year 1852, which was the year prior to the passing of the Act, and therefore they did not come under this Act.

2187. Do you know whether convicts let out of the prisons in London with tickets of leave are sent down to the respective counties to which they go at the expense of the Government; if, for example, a dozen are sent down out of Pentonville, are they sent down at the expense of the Government to Glasgow?—I understand that is the rule.

2188. Would you allow those parties to have the option to go where they liked?—In certain cases I think it would be an improvement.

2189. What is the advantage of sending any of them back to the places from whence they came?—The reason, I have no doubt, why they send them back to Glasgow, is the prospect of their friends obtaining employment for them and giving them encouragement.

2190. That may be the motive, but is that any decided advantage, generally speaking, to the convicts so liberated; would it not be better, instead of sending them back to the respective places from whence they came, to let them choose where they would go to?—It would, in my opinion.

2191. Has it not occurred to you, in your experience, to observe that men getting out of prison are often in a destitute and forlorn condition for want of a few shillings, or a pound or two, to help them to get employment?—No doubt; but the parties who have obtained these tickets of leave, so far as I have been able to ascertain, are not turned out destitute of money, nor destitute of clothing; they have sufficient to take them to their destination, and to keep them a reasonable time, till they can earn as much as would set them agoing.

2192. From your experience, do you think that prisoners generally are not left in a destitute and forlorn condition, for want of having a few shillings in their pockets to enable them to try to get into employment?—Parties turned out of ordinary prisons would be obliged to go home to their friends, or to some party who would give them food and lodging, because it is not usual in our prisons to give them any gratuity upon leaving, further than in an extreme case they might pay their passage home.

2193. *Chairman.*] Do you think it would be of advantage in any case to limit the ticket of leave, as to the place to which a man should go, or would you have it in all cases a licence to be at large in the United Kingdom and the Channel Islands; would you exclude any place in any case?—The only place which there could be any reason for excluding, would be the county which he was sent from.

2194. You think that, instead of its being the invariable rule to return the criminal to the county from which he was sent, there might in some cases be good

reasons

reasons for excluding him from that particular county?—Yes; and I think it would be a great improvement to add, "in the British colonies," after the Channel Islands.

2195. So as to give a power to grant a licence to go beyond the United Kingdom and the Channel Islands?—Yes.

2196. You concur in opinion with Sir Archibald Alison upon that subject?—Yes.

2197. Mr. *Deedes*.] As you say you would exclude a man from being returned to the place from which he went, what would you say in the case of a person who left a wife and family living there?—I do not say that it would in every case be prudent to exclude him from returning to his own country or place; it would not be so in the case of a man having a family there; in that case the best place he could go to would be his home, because, if he had a wife and family, it would be a sort of guarantee for his doing the best to get a living.

2198. Lord *Naas*.] But you think that if he is sent to a certain place, the police ought to be informed of it?—I think so, under proper regulations; and it is necessary in Scotland that there should be a better police.

2199. But, in case the plan is adopted of these prisoners being discharged without having any place indicated as their place of residence, it would be impossible then to give the police that information?—Even supposing they were liberated, without sending them back to where they were convicted, I think it would be very proper that the sheriff of that county should be made aware of the man's liberation, because, if he committed crime there, he is pretty sure to come back to the same point where he is acquainted, and where he has associates. If he does well, and he is never seen or heard of, so much the better; but I think that the sheriff of the county should have an intimation that he is at liberty.

2200. Do you think that in most cases, a man who, when he is discharged, wishes to do well, would rather not go back to the place from whence he came?—I have no doubt a good many of them. I know a number of parties who, when they were sent home from Bermuda, expressed a great regret at not having got their gratuity in Bermuda, and not having been allowed to make their way across to America in the best way they could.

2201. Do you think that the worst class are the class most likely to go back to their original places of conviction?—Yes.

2202. Mr. Serjeant *O'Brien*.] You mentioned that transportation had a great effect in deterring persons from committing crime; on what do you found that opinion?—I give that as the opinion of the criminal classes that have passed through my hands; I have heard their opinions in regard to the matter. When they are sent out of the country, there is a total separation from their associates.

2203. Have you heard them express that opinion?—I have heard them express it hundreds of times.

2204. Mr. *Beckett Denison*.] Do you think that the present system of making convicts serve a certain time in prisons, and then returning them into the county, has a tendency to increase the crime of the country, or the contrary?—My opinion is that it will have the effect of increasing the crime of the country.

2205. On what account?—Because there are few of the parties who are so liberated that will have friends to take charge of them; and I am afraid, from what I have observed, that a great number of them would relapse into crime.

2206. Are you disposed to add that while they themselves relapse into crime they also teach others to commit crime?—Yes, that is always the rule. One criminal always gathers a focus about him: he gathers a nest.

2207. May we therefore assume that under the present system the amount of crime, in proportion to the population, is likely to increase rather than decrease?—I have no doubt that it would have increased to a very large extent had not the war been going on at the same time that this ticket of leave system is. I know that in Glasgow crime has not increased, but I attribute that to the war having taken away a great many of our criminal population who went for soldiers and sailors.

2208. But now that we have returned to peace you think there is reason to fear a great increase of crime?—Yes, I suspect that crime will increase very much.

*Lunæ, 9° die Junii,* 1856.

MEMBERS PRESENT.

| | |
|---|---|
| Mr. Baines. | Mr. John Wynne. |
| Sir John Pakington. | Mr. Beckett Denison. |
| Lord Naas. | Mr. Deedes. |
| Mr. Wortley. | Mr. Seymour Fitzgerald. |
| Mr. Adderley. | Mr. Monckton Milnes. |
| Mr. Serjeant O'Brien. | Mr. Ker Seymer. |
| Mr. Wickham. | |

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

*William Hart,* Esq., called in; and Examined.

*W. Hart,* Esq.

9 June 1856.

2209. *Chairman.*] WHAT is the office which you hold?—I hold the office of Procurator Fiscal of the Sheriff Court of Lanarkshire, at Glasgow.

2210. That court, as we understand, has a criminal jurisdiction, and is authorised to pass sentences to the extent of two years' imprisonment?—Yes.

2211. It does not pass sentences of transportation or penal servitude?—No; the sheriff has no power to transport.

2212. Have you any office in the Circuit Court?—I have the preparation of the cases within the city, and within a certain district of Lanarkshire for trial in the Justiciary Court.

2213. Those are cases of all kinds, including cases of serious offences?—Cases of all kinds.

2214. As well as those within the limit of your own jurisdiction, you prepare cases for the Circuit Court?—Yes, and occasionally for the High Court at Edinburgh.

2215. How long have you held any office connected with the administration of criminal law at the Circuit Court?—I have held office as Procurator Fiscal for the last 10 years; for 20 years prior to that I was Assistant, or Deputy Procurator Fiscal of the same court.

2216. You are aware of the change which has been lately made in the law under the Act of Parliament into which we are now inquiring, the Act passed in the year 1853?—I am.

2217. You are aware that by that Act the punishment of transportation is absolutely abolished for periods less than 14 years?—Yes.

2218. And that there is the punishment of penal servitude alternative with transportation given for periods beyond that time?—Yes.

2219. You are also aware that the Statute for periods less than that substitutes penal servitude for transportation?—I am.

2220. Have you formed an opinion generally as to what the operation of that change in the law has been, whether favourable or otherwise?—I am very decidedly of opinion that it has operated unfavourably.

2221. Will you be good enough to state to the Committee the grounds upon which you have come to that conclusion?—Under the former system we very rarely had a person previously convicted and transported for trial a second time, but now it is a very common thing.

2222. You mean under the system by which convicts were transported?—Yes.

2223. They did not return; you saw no more of them?—They did not return.

2224. Do you mean that with respect to persons sentenced to penal servitude instead of transportation, or to persons who have been let out on tickets of leave, you see those persons again?—I cannot say as to those who have been sentenced to penal servitude. I presume that we have had no experience of those as yet under the operation of that Act.

2225. You hardly could from the length of time?—No.

2226. Then who are the persons of whom you have been speaking; are they those who, having been sentenced to transportation, have been let out upon tickets of leave?—Quite so.

2227. I suppose those were persons sentenced to transportation before the passing of the Act?—Yes, I believe so. I do not think that there have been any

any who were sentenced to transportation, since the passing of the Act, whom we have seen again

2228. You speak entirely of persons who have been sentenced to transportation previously to the passing of the Act, and who have since that time come out upon tickets of leave?—I believe so.

2229. And do you say that you have in many cases seen those parties again brought up charged with crimes?—Yes. At our last circuit I think we had no less than ten of those, and we had two that were taken up under very suspicious circumstances charged with crime, but against whom the measure of legal evidence was not complete, and we reported those to the Home Office, and had their tickets recalled.

2230. What was the class of crimes with which those persons were charged. Were they of a serious kind?—One was an assault, with intent to rob.

2231. Accompanied with violence?—Very slight violence; not very great personal violence. The other was a case of theft from the person.

2232. Picking a pocket?—Yes; the theft of a gold watch, I think, from a person; a species of pocket-picking.

2233. Were any of the cases of a more serious description of offence than those you have now mentioned?—Those are the only two cases which I remember in which the tickets of leave were recalled under the circumstances.

2234. You spoke of ten persons?—Ten who were brought to trial and convicted.

2235. Of what kind of offences were they convicted?—Generally speaking they were acts of theft; not to a great amount.

2236. What was the most serious offence?—They were generally thefts to a small amount, and two or three of them were aggravated by house-breaking; thefts from dwelling-houses.

2237. You say that there were ten persons convicted?—Yes.

2238. How many have you in your calendar for that circuit. It is for the county of Lanark, is it not?—Yes.

2239. For that same circuit, about how many cases were there in the calendar for the county of Lanark?—There were 50 cases in the calendar.

2240. These were 10 persons convicted?—Yes.

2241. And in each of those cases there was a ticket of leave?—Yes.

2242. How do you know that there was a ticket of leave; was it produced?—I cannot say that I saw tickets of leave produced in every case, but in cases where the tickets of leave did not happen to be found on the persons, we communicated with the Crown Office, and had a report from them as to their being ticket-of-leave parties.

2243. You are satisfied that those 10 were all cases of tickets of leave?—Yes, I am satisfied of it.

2244. That was as regards the last circuit; at preceding circuits, what was your experience with regard to persons of this description; can you give us information upon that point?—At the previous circuit, in January, there were seven cases.

2245. Of convictions of ticket-of-leave men?—Of ticket-of-leave men, as I believe; I know that some of them were; I could not precisely say that all of them were, but I have personal knowledge of fully one half being so.

2246. Is there any kind of entry made in any of your books or papers to show the numbers from time to time of that description of persons?—No, I think not; we see it from the indictment, which is served on the party.

2247. That he has been convicted before?—Yes; it is generally libelled that the party has previously received sentence of transportation.

2248. That would not show whether it was a ticket-of-leave case or a case of a man whose sentence had expired?—Certainly not; but I know from the dates that they must have been either one or the other.

2249. Can you give us information as to the circuits before the two which you have mentioned?—I have given you April and January of this year. There were eight persons in the autumn of 1855.

2250. Persons who had been previously convicted?—Persons who had been previously convicted.

2251. Can you say how many of those were ticket-of-leave men?—I could not say precisely the number; I should say at least six of those, to my own knowledge.

*W. Hart*, Esq.

9 June 1856.

2252. Take the circuit before that?—That is the one in April 1855; there were only four persons previously convicted.

2253. How many of those were ticket-of-leave men?—I think the whole of them would be; I am satisfied that the whole four would be.

2254. Have you anything before that?—The next we have is the winter of 1854, at which there were five previously convicted.

2255. Can you tell us how many of those were ticket-of-leave men?—I think the whole were.

2256. Do you feel satisfied of it when you say you think?—Yes, I am quite satisfied of that.

2257. Take the circuit before that?—September 1854; six were previously convicted.

5258. How many of those were ticket-of-leave men?—I should think the whole of them; I could not be quite sure; I am certain there were four at least.

2259. Mr. *Beckett Denison.*] Have you any figures to show what per centage that is, of the whole number who were tried?—I made up a statement of the various years.

2260. Have you a return of all the parties coming back into Lanarkshire who had received tickets of leave from the Secretary of State's Office?—Only by correspondence with the Crown officer as to parties apprehended for new crimes, and originally convicted in Lanarkshire; there may have been others who were originally convicted elsewhere.

2261. I think, in answer to the first question that was put to you, you said that the Act which we are called upon to consider had not worked well in Scotland?—Yes, I said so.

2262. As that Act was only passed in 1853, you can have had no practical experience of the operation of that Act?—I presume, from the fact of persons on tickets of leave being found within our jurisdiction, that the Act of Parliament was made to apply to persons who were convicted prior to the passing of the Act.

2263. It does not appear to me that you can have any practical experience of the operation of that Act, inasmuch as it was passed in 1853, and consequently no tickets of leave can have been granted to parties who have been convicted since 1853?—I am not aware that there has been any ticket of leave given to a person who has been convicted since the operation of the Act.

2264. What you meant to say was, that all the parties respecting whom you have given evidence had received tickets of leave, and that they had been convicted before 1853?—Yes.

2265. In your previous answers you have given us certain numbers of parties who have been re-convicted, and who have, according to your belief, not according to your actual statement, had tickets of leave?—Yes.

2266. Have you any means of knowing the number of persons who have received tickets of leave from the Home Office?—Not the slightest.

2267. Then with regard to the four, or the six, or the eight, of whom you have given evidence as having been reconvicted, you cannot tell whether they were 4 out of 100, or 4 out of 10, or 4 out of 50?—No, I have not any means of knowing it.

2268. Is not this your opinion, that tickets of leave thus far, as well as you know, have operated prejudicially to the public?—I think decidedly; for one reason which I may give, with permission, because the local authorities have no notice that such parties have returned.

2269. Have you any means of knowing whether parties who come back with tickets of leave are in the habit of communicating with other criminal parties, and so gradually corrupting the population with which they associate?—Yes, I have had means of knowing that they associate with others, and have at least a tendency to corrupt; and I believe they do corrupt.

2270. Mr. *Wickham.*] You say that at the last assizes, out of 50 prisoners whose names were in the calendar, 10 were persons who had had tickets of leave?—Yes, I think so.

2271. Is that an extraordinary number?—It is a very extraordinary number.

2272. You do not think that that is the average?—No, certainly not.

2273. Sir *John Pakington.*] Has your attention as procurator fiscal been specially directed to the working of the ticket-of-leave system?—Only in the way that I have mentioned. We are astonished to find so many people upon tickets of leave taken up charged with having committed crimes anew.

2274. But you speak of those numbers positively, and not by comparison with the numbers of tickets of leave which may be in your district?—I have no means of knowing that, of course.

2275. Mr. *John Wynne.*] What means have you of distinguishing a ticket-of-leave man from a man who has returned, his sentence having expired?—We know it sometimes from the ticket of leave being found in possession of the party; upon other occasions we know it from communications with the Crown Office in the usual course of correspondence.

2276. Sir *John Pakington.*] I understand that you, as procurator fiscal, have no knowledge of the ticket-of-leave men, excepting when a man having a ticket of leave is taken into custody and brought under the authority of the law?—Quite so; or a party previously convicted.

2277. Is it the case that the police of your district also have no knowledge of the ticket-of-leave men?—None whatever.

2278. Mr. Serjeant *O'Brien.*] Before the Act of 1853, was it the habit in Scotland to carry out the sentence of transportation in almost all the cases where it was inflicted?—I believe it was. The sentences were very nearly carried out, I believe, almost in every instance; there might be exceptions.

2279. Was it the habit there to substitute lengthened periods of imprisonment for transportation before that Act?—Certainly not.

Mr. *James McLevy*, called in; and Examined.



2280. Sir *John Pakington.*] WHAT are you?—A detective officer.

2281. Where?—At Edinburgh.

2282. How long have you filled that situation?—Twenty-two years.

2283. As a detective officer in Edinburgh, has your attention been directed to the working of the law of 1853, which substituted penal servitude for transportation in certain cases?—Yes.

2284. Have you given your attention to the effects of the tickets of leave which have been granted to persons under sentence of transportation since that Act was passed?—Yes.

2285. Will you explain to the Committee what is the result of your experience of those tickets of leave in the city of Edinburgh?—I consider it not a good system.

2286. What are your reasons for considering that it is not a good system?—Because the men are as bad when they come home to Edinburgh, or much worse, than before they were sent away.

2287. You mean that persons coming back to Edinburgh bearing tickets of leave after a period on public works, are in your opinion not reformed?—No; the parties whom I speak of are thieves.

2288. Upon what grounds do you form that opinion?—As soon as they arrive they go into their old haunts, and associate with bad characters.

2289. Are you speaking of men who were residing in Edinburgh before their conviction?—I am.

2290. How many of such cases have come under your observation?—There have been six sentenced to 21 years since they came home.

2291. Six persons bearing tickets of leave?—Yes.

2292. Are those six persons the only persons bearing tickets of leave who have come before the courts at Edinburgh since the Act of 1853 passed?—There have been other two, who were tried and got 15 years' transportation.

2293. Any more?—There has been one who was transported for life?—I know of other four or five, who are leading a very bad life, associating with thieves, and living in bad houses, but who have not been convicted since they came home.

2294. Then the result of your statement is this, that you know of nine persons bearing tickets of leave, who have been again tried and sentenced since they returned, and you know of four or five others who, although they have not been again tried, are leading a bad life; is that the result of your experience?—There have been two convicted in a police court, and who were sentenced to 60 days each, and after their time was up they were sent to London; to the same place where they came from.

2295. Were those two part of the four or five leading a bad life whomyou just now mentioned?—No.

2296. Besides them?—Besides them.

Mr. James M'Levy.

9 June 1856.

2297. Do you know of any others?—There is one in prison just now, awaiting trial; it was just this month, last year, when he arrived, and he has been going on the same as he did before he was transported.

2298. Then am I to understand that you know, in all, of some 15 or 16 persons in Edinburgh who have led a bad life since they returned with tickets of leave?—Yes.

2299. Have you any knowledge of the total number of persons bearing tickets of leave who have returned to Edinburgh?—No.

2300. Therefore you are quite unable to tell what proportion these 15 or 16 persons may bear to the whole number of ticket-of-leave men who have come back to Edinburgh?—I am not able to tell that.

2301. And your whole opinion of the bad working of the ticket-of-leave system is founded upon those 15 or 16 cases; is that so?—Yes.

2302. You have no other reason for the opinion which you have expressed to this Committee?—No other reason, only the life which the men were leading till they were sent away.

2303. Have you, from your position as a detective officer, any knowledge of the opinions entertained by the criminal classes with respect to the two modes of punishment?—I cannot speak as to the penal service.

2304. You have no knowledge whether penal servitude or transportation is regarded by the criminal class as being the severer punishment?—They allow that the penal service is; they would rather get 15 years' transportation than eight years' penal service; that is what they say themselves.

2305. That is within your knowledge?—Yes.

2306. Have you ever heard similar opinions expressed with reference to the shorter periods of punishment?—I cannot say as to that; my opinion is, that short punishment has very little effect.

2307. Mr. *Beckett Denison.*] If you were to be told that out of 100 men who had received tickets of leave to go back to Edinburgh, having been previously convicted, it was ascertained that there were only 20 who relapsed into crime, should you think that that was above or below the number which you believe would be the case?—I do not know. I cannot tell the number that has arrived in Edinburgh. I can only tell the number that I knew personally before they were sent away.

2308. Your opinion is that the ticket-of-leave system is bad?—That is my opinion.

2309. Following that up, I want to ask you this question: If it could be proved that out of every 100 men who had received tickets of leave, there were only 20 who had relapsed into crime, should you then say that, in your opinion, the Act had failed, and had worked badly?—I cannot give any opinion upon that.

2310. If it were to be stated that only eight out of every 100 had relapsed into crime, what should you say. Should you believe that statement?—I think it is a very small number out of so many.

2311. Is it so small that you can hardly believe it to be true?—If they were all common thieves before they went away I would hardly take it in. These common thieves of Edinburgh, when they come back will be so again.

2312. A witness has stated, that of the whole number of tickets of leave which had been granted, he only knew of eight out of every 100 who had relapsed into crime; and making a very liberal allowance for others who were not known, he put it at 12 more, which make 20 out of every 100. If that could be proved, should you continue to say that the Act had failed in its effect?—I cannot answer that question.

2313. Mr. *Deedes.*] These cases which you have been speaking of to the Committee are entirely confined to men who have returned since this Act came into operation?—Yes; men that I know.

2314. For about 18 years before that you were in the same position in which you are now, namely, a detective officer in Edinburgh?—Yes.

2315. During that period of time did you know any number of cases, and if so what number, of convicts who returned to Edinburgh, having been punished and sent away from there, and who again fell into bad habits?—There were not many each year. They generally had long sentences.

2316. At the end of the time, when they came back, what were their habits; were they reformed, or did they fall again into crime?—I know of some who fell into

into crime after they came back; very few; the greater number did not come back. Mr. *James M'Levy.*

2317. But of those who did come back, what proportion fell into crime, within your knowledge?—Perhaps there might be three or four in two years. 9 June 1856.

2318. And you had considerable knowledge of all persons convicted in Edinburgh?—Yes. I was generally a witness in the case, or otherwise present when they were tried.

2319. Mr. *John Wynne.*] You have given us an account of a certain number who have relapsed into crime; can you, from your position as a detective, tell us of any of these ticket-of-leave men who have conducted themselves honestly?—I do not know of one.

2320. Have you any information of any of the ticket-of-leave men in Edinburgh except those who have come before you upon being tried for offences?—There is just one that I know.

2321. Is he leading an honest life or not?—He was not a common thief when he was sent away; it was his first offence.

2322. What life is he leading now?—I believe him to be leading an honest life, as far as I know.

2323. Sir *John Pakington.*] Is there any system at all at Edinburgh by which, when a ticket-of-leave man returns there, any information is given to your police?—Not any.

2324. Following up the opinion which you have expressed, let me ask you this question; suppose a prisoner to be convicted in Edinburgh, and sentenced to four years' penal servitude, and at the end of that time to come back to Edinburgh, would you prefer his coming back with or without a ticket of leave?—I have not seen any of them yet in Edinburgh.

2325. Which do you think would be best; for him to come back without a ticket of leave, or with such a check as a ticket of leave may impose; which should you prefer, as a police officer there?—I think it would just be as well to let them go without a ticket.

2326. Mr. *Beckett Denison.*] Would it not be more desirable that the parties in Edinburgh, or in any other place, should know from the Secretary of State's Office or some other, that half-a-dozen men, or half a score men by name were sent back into their neighbourhood from whence they came; might it not help the police officers without damaging the free action of the parties themselves?—I do not think it would in Edinburgh. I will explain one case of a ticket-of-leave man, the first that I saw in Edinburgh. His name was G. B.; he was just seven weeks home, and within those seven weeks there were seven different acts of theft against him, and not an officer in Edinburgh knew that he was home. I recovered the articles which had been stolen in the seven different acts in a broker's shop, and the broker told me that generally the thief came and sold the goods to him; the same night I watched at 8 o'clock, and found him coming with some more stolen goods to the same shop.

Sir *Matthew Barrington*, Bart., called in; and Examined.

2327. Sir *John Pakington.*] I BELIEVE you hold an official position in Ireland; what is it?—I am Crown Solicitor for the Munster circuit, which office I have held for about 40 years. Sir *M. Barrington*, Bart.

2328. I presume that the situation of Crown solicitor for the Munster circuit has of necessity made you very familiar, for the period to which you refer, with the working of the criminal law in Ireland?—It has. I have been frequently examined by both Houses of Commons and Lords on the subject.

2329. Will you be so good as to give the Committee your opinion of the effects of the sentence of transportation, as that sentence has been carried out of late years in Ireland?—I think that transportation is a punishment more dreaded than any other in Ireland, if carried into immediate execution; there is no punishment of which the people have such a horror. I will contrast it with the punishment of death, and give you some facts. We had a special commission in Limerick in 1816, at which a great number of persons were executed. I think there were 10 executed for the murder of a man and his wife of the name of Dillon (Sir Robert Peel very often alluded to it in Parliament), and still the country continued disturbed. We had a special commission again in Limerick in 1821, and in Cork and Kerry, and a great number of persons were executed, and still the country

Sir *M. Barrington*, Bart.

9 June 1856.

was disturbed. In 1831, just at the moment when Parliament was dissolved on the Reform Bill, the county of Clare was in actual open rebellion. There were murders every night; the fences were levelled, and the whole district was in a state of anarchy and confusion. The Government were naturally alarmed, and there was not time to pass an Insurrection Act. I happened to be in London, and was asked what I would suggest. Special commissions were then issued in 1831; and the effect of what I recommended was, that there should be no trial involving the punishment of death, but that in every case transportation should be tried; the result was, that we transported from the dock, I think, between 50 and 60 persons, and, if I recollect rightly, more; they were sent directly from the court-house after conviction, and the effect was magical. From that period, for nearly 20 years, there was not a more peaceful part of Ireland than the county of Clare, which I attribute to the immediate effect of the transportation. It was thought so good a result, that Mr. Stanley, now Lord Derby, desired me to prepare a Bill to alter the White Boy Act of Ireland, and to substitute the punishment of transportation for death where it existed, which I did, and that Act passed in 1831, the 1 & 2 Will. 4, c. 44. Previously to that, if a house was attacked after sunset, the punishment was death; if the house was attacked before the sunset, it was a mere riot; so that there was no analogy in the punishment of the outrage, which was greater and more violent generally in the daytime than it was at night: still the punishment was less. The punishment was then altered to transportation in both instances, and the Act was passed.

2330. As I understand you, that Act changed the punishment of death into transportation?—Yes, and it made the punishment of an outrage by day transportation also; it equalized the punishment; that is to say, it made it transportation whether the offence was by day or by night.

2331. Have you found from that date that outrages of that class have diminished in number?—Very much, and the Act was most useful. But I will give you a stronger instance. Up to the year 1829 the homicides in Ireland were so numerous that I never had a circuit where I had not about 50 homicides or violent assaults to prosecute. I do not mean regular murders, but what were distinguished in Ireland as fair murders; that is to say, murders in fights, at fairs and markets. In one instance, I think there were 12 men killed in one fight in Kerry; they were beaten into the river, and as they struggled in the water to get on to the land, the conquering party on the land struck them with stones on the head, and the lives were sacrificed; that was near Listowel. I was always pressing to have the punishment for homicides and manslaughters and for violent assaults altered, and at last it was altered in the year 1829, by the 10 Geo. 4, c. 34, ss. 12 and 29. At that time the punishment for the most violent homicide within a shadow of murder was a long imprisonment. These cases would be treated as murder in England, which in Ireland arising out of fights at fairs, though the parties went there with the intention of fighting, were not considered murder; they were all treated as manslaughter. The punishment for assaults was a long imprisonment, according to the nature of the offence, although a most violent assault, if it was such as, though endangering life, or striking off a limb, or fracturing a skull, did not involve previous malice, so as to bring it under the Ellenborough Act. The consequence was, that in the year 1829 the punishment was altered, and the Act of that year substituted transportation as the punishment for manslaughter, and for violent assaults. From that period the cessation of manslaughter in Ireland is extraordinary, and the fightings at fairs have gradually subsided, till there is now scarcely an instance of a homicide committed at a fair or at a market. Previously to 1829 there was scarcely a fair at which a homicide was not committed.

2332. I presume you do not think it extraordinary that the punishment of transportation should prove more deterring in its effects than the long imprisonments to which you have referred; but do you infer from the facts which you have now stated to the Committee, that the Irish population in general dread the punishment of transportation more than the punishment of death?—I do certainly, if carried into effect at once; and I know that at that special commission at Clare they were taken out of the country so rapidly and so suddenly, that the scene was awful; the convicts threw their shoes and handkerchiefs to their families, as tokens and remembrances; I am sure it had a much stronger effect than if some of them had been executed three or four weeks afterwards, having the consolation of friends and party to support them.

2333. How

2333. How do you explain the apparently extraordinary fact that the punishment of transportation should create a greater dread than the punishment of death?—The punishment of death is not carried into effect for some time; they are at home; they are taking leave of their families; they have them about them; they have their friends visiting them. By transportation I mean transportation carried into instant effect; I mean a man being convicted and transported from the dock; not allowed to go back to the gaol, not allowed to see a friend. At that commission which had such an effect upon Clare, there was not one of the convicts allowed to be removed from the court-house to the gaol; they were all taken from the court-house, tied upon cars, and sent off with the dragoons to Cork.

2334. What has been the usual interval in Ireland between the sentence of death and the execution of it?—Formerly the execution should be within 48 hours for murder, but for all other offences it was discretionary in the Judge.

2335. I am aware of the law to which you refer about murders, but I ask what has been the usual interval with regard to other crimes before the repeal of the law, and what has been the usual interval since?—Perhaps a fortnight or three weeks.

2336. Do you mean that the value, to a condemned criminal, of that fortnight is so great that the party being allowed to live for a fortnight, makes the punishment of death less deterring than the punishment of transportation?—I would not say it is less deterring; I would not be so absurd as to say that.

2337. But that is precisely what you have said?—I meant that the sudden removal of men for transportation had a greater effect in Clare at that time than if a few had been executed, and more discharged, because there is no instance of a number of men, convicted of anything but murder, in which there would not be a selection made for the execution of some. For instance, in a Whiteboy case, eight or 10 are convicted of a capital offence, punishable with death; some would be selected for execution and some let off, and then the letting off of some neutralises the effect of the execution of the others.

2338. Can you mention any other reason besides the interval of time to which you have referred, by which you would account for the statement you have made, that transportation is regarded with greater dread than death?—I say transportation carried into instant effect.

2339. Have you any other reason for the statement?—No.

2340. Will you be so good as to explain to the Committee, having thus stated the great dread with which transportation has been regarded in Ireland, how that sentence has been practically carried out in Ireland?—It is carried out in Ireland for ordinary offences in the way in which it is usually carried out in England; the men are sent back to the gaol and removed out of the country in a given time; but whenever there is any disturbance in the country which it is desirable to check, then they are removed at once from the dock. It is the effect of the removal of them from the dock that causes its great dread.

2341. The removal from the dock, speaking literally, is a matter of course; do you mean that in all such cases the practice has been immediately to send them out of Ireland?—Whenever the country is disturbed it is so, or taking them to Cork for immediate removal out of the country.

2342. In cases not of disturbance; in those cases which relate to the ordinary administration of the criminal law, has the sentence of transportation been of late years carried out in Ireland in any manner different from that in which has it been carried out in England?—No, it has not.

2343. Has the practice in Ireland been of late years to send persons under sentence of transportation first of all for a period of separate confinement; then for a period on public works; and thirdly, to send them to the colonies?—It has.

2344. Have there been any instances in which the whole period of transportation has been passed in Ireland instead of the third period of real transportation to a colony being resorted to?—I think for ordinary offences there have; where the sentence has been for seven years they have not been sent out of the country.

2345. How have the sentences of seven years for ordinary crimes been carried out?—I think, if they are for ordinary crimes, they are carried out by imprisonment.

2346. Where?—In the Cove of Cork, at the depôts there.

2347. For how long a period?—I do not know.

Sir *M. Barrington*, Bart.

9 June 1856.

2348. You state that it has been common in cases of seven years' transportation for ordinary crimes to imprison the prisoners in Ireland instead of sending them ultimately abroad, but you do not know for how long the imprisonment has lasted?—I do not.

2349. Are you sure that that practice has been common?—I am not sure; it is not any part of my department at all.

2350. Then in fact the Committee must understand, I apprehend, that you are not conversant with the mode in which a sentence of seven years' transportation has latterly been carried out?—No, excepting from general report.

2351. All that you know upon the subject is, that the sentence of transportation generally has been regarded with great apprehension by the Irish people?—Certainly.

2352. I presume, speaking from experience elsewhere, that it has been practically found in Ireland, that whether the sentence of transportation has been long or short, the person so sentenced has seldom if ever returned to his own country?—Very seldom. I do not recollect an instance of having to try a person returned from transportation, with the exception of one ticket-of-leave man.

2353. Have you any means of forming an opinion whether or not this fact, that transported prisoners rarely return, has constituted one of the reasons why the punishment is regarded with so much dread in Ireland?—I think it is the separation altogether from their families. The people are generally affectionate to each other; and it is sudden separation from family and children and friends, and total removal out of the country.

2354. Do you think that that has acted chiefly upon the criminal class themselves, or upon their relatives and friends?—I think upon both.

2355. Have you any reason to think that persons under sentence of transportation have preferred to go abroad rather than to stay at home?—No, I have not.

2356. You think that the Irish people would altogether dread, as the greatest possible punishment, the fact of exile from their own country?—Certainly; and I should dread very much, if a disturbance occurred again in Ireland, if the power of transportation was abolished.

2357. Have you given your attention to the punishments which were substituted by the Act of Parliament passed in 1853 for transportation?—No; we have had very little experience of them as yet.

2358. I presume that since that Act passed you have had a considerable number of cases in which the sentence of penal servitude has been passed upon Irish convicts, have you not?—We have, but still the time has not run out; it is not three years yet since that Act passed; we can hardly judge of it.

2359. You have no knowledge of the effect of the termination of sentences, but you must have considerable experience of the commencement of such sentences?—Certainly.

2360. Have you at all given your attention to the question whether or not those sentences of penal servitude are regarded by Irish prisoners or their friends with great dread?—Imprisonment, with penal servitude, or hard labour, is regarded with dread, certainly.

2361. But if I understand you rightly, not with equal dread to the sentence of transportation?—Certainly not, so far as my experience goes.

2362. Since the Act of 1853 passed, have you had many cases of prisoners who were previously under sentence of transportation returning to Ireland with tickets of leave?—Only one instance of a ticket-of-leave man, who in the noonday committed a highway robbery; he was armed with pistols; highway robbery is a very unusual offence in Ireland. I do not recollect many instances of highway robbery with force.

2363. Where did it occur?—Within a mile of Limerick; he was pursued immediately, brought in, and transported again.

2364. Am I to understand you that that is the only case which you know of a ticket-of-leave man returning to Ireland, or is that the only case you know of a ticket-of-leave man coming again under the grasp of the law?—It is the only one that I know coming again under the law.

2365. Are you aware whether or not many persons have returned to Ireland with tickets of leave?—I am not aware. I do not know that there is any mode of ascertaining it. I am not aware of any.

2366. Referring generally to the evidence which you have now given, I apprehend

hend that your opinion is, that you would be very reluctant to see the punishment of transportation done away with?—Most certainly, and particularly so if there was any disturbance of a Whiteboy character, such as has so frequently occurred in Ireland. I should have a very great dread of the consequences if that punishment was altogether abolished.

2367. You have no idea that a long period of penal servitude upon public works in England would be regarded with equal dread?—Certainly, I do not think so.

2368. You think that the fact, that after a definite time the prisoner so sentenced would return to his family and friends, would of itself deprive the punishment of the same degree of severity?—I do, and the fact of his friends knowing that he was in the country, and the possibility of seeing him, or communicating with him by letter or otherwise, and hearing how he was; knowing all about him.

2369. How would it be if it was known that the prisoner was sent to serve his term out in the settlement of Bermuda or Gibraltar?—Then it is so distant. He is out of the same country they are living in.

2370. Then you think the effect would be much the same as transportation, excepting as diminished by the comparative certainty of return?—Yes.

2371. Would not the certainty and severity of the punishment, when it became known, and also the great length of the period of punishment in aggravated cases, have the effect of creating the degree of dread that the law would contemplate and desire?—If transportation is to be abolished it certainly would, but I still prefer transportation.

2372. You would wish to retain transportation at any rate in the severer class of cases?—I would certainly, and in all cases of a public disturbance, because there they are not persons committing a bad crime, or what they consider a bad crime; I can hardly describe it, but it is a different class of crime.

2373. During the lucid intervals which you have in Ireland when there is no public disturbance, how would you regard the two punishments as affecting ordinary crimes?—I think for ordinary crimes imprisonment, with hard labour or penal servitude, is a very good punishment, and I think it is regarded as such for larcenies and all common crimes of that kind, and we have not many crimes of a very serious character in Ireland.

2374. For ordinary crimes you would not be so anxious to see the punishment of transportation retained?—No, I think not.

2375. You think the other might be sufficiently deterring in its effects?—Yes, sufficiently deterring for larcenies and such cases.

2376. Lord *Naas*.] Do you think that the release of the convicts who were convicted of agrarian or Whiteboy offences on tickets of leave, would be very prejudicial to the country?—I do, certainly, because the dread on the part of those who have prosecuted them is, that on returning they would avenge themselves on them. I know at this moment a case in which there is great dread in the country. A party of 14 went one night about three years ago and houghed the cattle of a man on a mountain farm, and they what they call bulled them in their own way, which is a most cruel crime; they put into the bearings of the animals long poles, and killed them in that way. This whole party was taken up; we prosecuted them; they were all convicted and transported, and I know there is the greatest dread, on account of this ticket-of-leave system, of these men being allowed to come back.

2377. Do you think that the release of these men upon tickets of leave would really very much do away with the terror which was occasioned by their sentence?—I do think it would in cases of that kind.

2378. And they would probably go back and reinstitute all the secret societies, and all that dreadful system which existed before?—Yes, that is my dread.

2379. Then you think that the ticket-of-leave system is totally inapplicable to persons who have been convicted of this description of offence?—I do. I should certainly be very sorry to see the punishment of transportation at all abolished or relaxed in any case of a Whiteboy character.

2380. Mr. *Monckton Milnes*.] Supposing that it was impossible to carry out the system of transportation to any large extent, do you think that there is no advantage in the system of ticket of leave over that of free discharge?—I think there is an advantage, and a great advantage, and I cannot contemplate that in retaining transportation, some place would not be found for the very few persons necessary to be transported, retaining transportation in Whiteboy cases, because it is a periodical disturbance; it is one that does not very often happen, and the

Sir *M. Barrington*, Bart.

9 June 1856.

numbers convicted of offences of that kind are, comparatively to the rest of the population, few; to the rest of the criminal population, I mean.

2381. You think, therefore, that especially in political cases, the system of ticket of leave is applicable?—Not political, but agrarian.

2382. Mr. *Wortley*.] I understood you to say that you attributed much of the terror which you have observed to accompany the punishment of transportation in cases of agrarian outrage, to the rapidity with which the sentence was carried into effect, by removing, as you described it, the prisoner from the dock immediately?—Yes, most certainly; it had a most extraordinary effect in Clare in 1831; there were a great number of men in gaol for capital offences, involving the punishment of death, and we never tried one of them, knowing the great effect which would be produced by transporting them from the dock; the result was, that when Parliament re-assembled Lord Grey went down to the House of Lords, and Mr. Stanley to the House of Commons, congratulating the Houses upon the effect of that commission.

2383. Was that rapidity of the execution of the sentence regulated by any special provision of the Act of Parliament, or by the discretion of the Executive?—The discretion of the Executive. They had the power to issue a warrant, and to order them off from the dock at once. There is power to imprison in any part of Ireland; and the course taken was this: the prisoners were all placed in court, and sentenced on the various verdicts of the different trials; then the dragoons were brought to the court-house door; the prisoners were taken from the dock, tied on cars, and the dragoons went on with them to the depôt at Cork for the purpose of removing them to transportation.

2384. Then this act could be done by the ordinary power of the Executive, if they chose to regulate the mode of carrying the sentence into effect?—Yes; it is entirely open to them.

2385. I understand you to attribute much more terror to the punishment of transportation in the case of agrarian offenders, or offenders of that class, guilty of outrages connected with Whiteboyism or disturbances, than you do in ordinary cases?—Yes, I do, and for this reason: in ordinary cases of larcenies they are generally isolated beings, without friends or relations, who commit them, but in an agrarian outrage it is generally some man of family, who has brothers and sisters, and in his position of a respectable class; therefore he is separated from all those attachments and feelings which men have naturally for their wives and families and children, without being guilty of a degrading crime, which they consider a robbery, or a larceny, or anything of that kind to be.

2386. The class to which you allude are persons having certain connections, wives and children and friends; and the immediate removal of them from the place of their birth acts as a very great punishment to them, and a great punishment also to their friends?—Certainly.

2387. But in the case of what you yourself term an isolated being, such as an ordinary criminal, do you think that there is any superior terror in transportation as compared with penal servitude?—No; I think the women would much prefer being transported; that applies particularly to the female convicts. During the distress in Cork there were an immense number of people convicted; the distress was so great that the robberies were for food, and it was awful. There were 60 people, I think, sentenced in one day to various imprisonments; they were all arranged in the court-house; there was disease in the gaol, and the judges even had a dread of the infection. They were all arranged in galleries round the court, and they were all sentenced in one batch. The effect was, that many of the women were crying out, "Oh! transport me, transport me!" preferring to be transported.

2388. Is not it frequently the case with ordinary offenders in the towns, and offenders of the low cast in the streets of Dublin or Cork, that the sentence of transportation holds out to them something like a vague hope of an improvement of their condition?—I think it does. I think that in those classes of cases the men would prefer being transported.

2389. Mr. *Adderley*.] Is not the reason why transported criminals so seldom come back to this country, that they generally find a good opening for getting a livelihood in the colony?—So I have heard; that many of them have succeeded very well there. I heard of one man who was not tried, but fled, being suspected of a murder; it was said that two of his cousins were executed for the murder; he came back with a considerable fortune, and bought in the Encumbered Estates Court, and is now a man of estate.

2390. Is that person's sequel of transportation not known among the community of Ireland?—It is; still that is a single case. The feeling that I have, with regard to transportation, is that its effect consists in the separation from all family and feelings of attachment; that the prisoners are suddenly taken away from them, and that in a class of crime where they are not considered as degraded.

2391. Can you state, with regard to the ticket-of-leave man whom you mentioned, who was convicted of highway robbery, which you say is so rare a crime, what his previous crime was, or where he came from?—No; I do not recollect.

2392. Do you happen to know whether he was an Irishman?—He was an Irishman, certainly. I could not say that he came from the county of Limerick, but I rather think he did, which county he returned to. He behaved very well to the man whom he robbed, for he gave him back half the money that he took from him, saying that he found that he was a poor fellow.

2393. You have not imported this new kind of crime into Ireland through the process of a ticket of leave?—No. That is the only instance which I know of a ticket-of-leave man.

2394. In advocating transportation so strongly for certain crimes, have you at all given your attention to the possibility of reviving transportation?—For that class of crimes.

2395. As to any outlet to which such criminals could be sent?—No. I have no idea. I know the difficulty which there is.

2396. Mr. *Wortley.*] The principal advantage which I understand you to attribute to transportation, as compared with penal servitude, applicable to ordinary crimes, and not agrarian crimes, or crimes of a similar nature, is the chance that the culprit does not return?—Yes; that is one of the advantages.

2397. But with the exception of that I understand you to say, that provided there is a sufficient place found for transportation in those exceptional cases, you do not see any objection to the substitution of penal servitude for transportation?—No, I do not, provided the penal servitude is carried out on public works which are not remunerative; useful works, but not remunerative; not interfering with the labourers of the country.

2398. Sir *John Pakington.*] Having long given your attention to the criminal law, although we have had as yet very little experience of tickets of leave in Ireland, have you turned your attention to the question of extending tickets of leave to convicts after a certain period of punishment?—No, I have not.

2399. You have no opinion to communicate to the Committee upon that subject?—No, I have not.

2400. Mr. *Beckett Denison.*] Your opinion seems to be, that the dread of transportation has a greater effect upon the minds of the Irish population than that of penal servitude?—Of one class of the population, for agrarian offences; but for all common offences I do not think it has; you have not in England the distinction between the two classes of crime.

2401. Do you mean that the fear of transportation has a deterring effect upon the minds of the parties who are in the habit of committing crime, or who may possibly commit a crime?—In the case of an agrarian crime I certainly think that it has a deterring effect.

2402. Do you believe that the population of Ireland ever take into calculation, before they commit any crime, the chance of their being transported or sent to penal servitude?—I do not think that they have thought of that distinction, but I have heard it from approvers and others that they have calculated upon the chances before committing an outrage of what the punishment would be.

2403. Do you believe that the chance of either being transported in the one case, or being imprisoned for a certain time in the other, produces any effect upon the mind of a man who is contemplating committing a crime?—I do in agrarian crimes; I think that they would be less disinclined to commit the crime if they thought they would be only imprisoned for a certain time, than they would be if they were certain of transportation.

2404. What would be the certain time for being imprisoned which would operate upon their minds favourably as against transportation?—I could hardly estimate that.

2405. But you are of opinion that they do calculate to a certain extent, before they commit a crime, what will be the chance and the description of the punishment?—I am. I have known it from approvers who have told us that they have so calculated: they have said, "There will be so many of us transported, and the rest will get off;" and there has been that kind of calculation. They never think about

Sir *M. Barrington*, Bart.

9 June 1856.

about imprisonment; what they think of is either death or transportation. Death is now abolished in all those Whiteboy cases, so that what they now think is, Some of us will be transported. In that very case which I mentioned of houghing the cattle and killing them, in that way the approver told me that they calculated that some of them might be transported, but they had no idea that the whole of them would be; two of them became approvers, and the remaining 14 were all transported, and that had a most admirable effect.

2406. Sir *John Pakington.*] Do you think that the gold discoveries had any effect in Ireland in making the dread of transportation to Australia less than it was before?—I think that a great many more common thefts and crimes of that sort were committed; it was very desirable to get out.

2407. Mr. *Monckton Milnes.*] Do you attribute the little regard in which imprisonment is held in Ireland to the superiority of the food in the prison to the nourishment of a large portion of the people?—I do not know. I think they dread the imprisonment when there is hard labour with it; but the ordinary imprisonment without hard labour they do not mind.

2408. Might not that be accounted for, by supposing that the prison dietary was better than the food which they generally were able to procure?—I do not know that that would be an inducement to a man to wish to get into gaol.

2409. Lord *Naas.*] But do you think it is so?—I can hardly say; it was so during the distress. It is a very common thing with boys in cities to break windows to get into gaol.

2410. Mr. *Monckton Milnes.*] Do you know anything of the circumstances of Captain Crofton's attempts to reform the criminals?—No.

2411. Mr. Serjeant *O'Brien.*] I believe before 1853 transportation for seven years was seldom carried out, in point of fact?—Except in Whiteboy cases.

2412. In the ordinary cases?—In the ordinary cases it was not.

2413. What was the period of imprisonment generally substituted for seven years' transportation?—It depends very much upon the crime and upon the judges.

2414. Was two years' imprisonment generally the equivalent to seven years' transportation?—I could not say.

2415. How do you mean that it was dependent upon the judges, supposing a prisoner was sentenced to seven years' transportation?—If the case admitted of a memorial, it would be referred to the judge, who would alter the punishment.

2416. Have you since 1853 had many cases where persons who had got tickets of leave from the convict establishments of this country have been tried again?—I have said that I know of but one instance since 1853.

2417. Mr. *Monckton Milnes.*] Would not a very perfect system of police in Ireland enable you to exercise an efficient surveillance over persons who were under a system of ticket of leave if it was thought advisable?—I think it would be a very good plan if the person issuing the ticket of leave was to certify to the head of the police of the district (every county in Ireland has an inspector of police), the persons who had got tickets of leave who had been convicts from that county.

2418. Would the circumstance of a man being generally known to be under the surveillance of the police, prevent him from getting employment?—I think it would to a certain extent; I think people would not like to employ a man who had a ticket of leave; I think they would prefer a man who was altogether pardoned to a man who had a ticket of leave; there is a feeling that the crime is still over him.

2419. Knowing as you do the character of the two countries, do you not think it would be less difficult for a man under those circumstances to get employment in Ireland than in England?—I think a man, no matter what he was, would get employment amongst his friends in Ireland, certainly.

2420. From the system of mutual attachment, which is so general among the Irish people, would not his unfortunate circumstances be more likely to be overlooked in Ireland than in England?—If the ticket of leave was to a convict of one kind, they would think nothing at all about it; they would not consider it a crime; but if it was what they consider a degrading crime I think they would not like to have him. I distinguish between a Whiteboy offence and a larceny. If a man was a robber, they would not like him; but if it was a Whiteboy offence they would think nothing of it whatever. If all those men who houghed the cattle were to go home, they would be treated better than the people in the country; and many a man in the neighbourhood would light up bonfires for them.

2421. Lord

2421. Lord *Naas.*] In all your remarks you take a wide distinction between that class of crimes and the common class of thieving, and so on?—Yes, certainly; and those are crimes which do not exist, I am very glad to say, either in England or Scotland. All I implore of the Committee is, not to abolish the punishment of transportation for agrarian crimes.

Sir *M. Barrington*, Bart.

9 June 1856.

---

*Jovis*, 12° *die Junii*, 1856.

MEMBERS PRESENT.

| | |
|---|---|
| Mr. Baines. | Mr. Massey. |
| Sir John Pakington. | Mr. Beckett Denison. |
| Mr. Adderley. | Mr. Deedes. |
| Mr. Serjeant O'Brien. | Mr. Seymour Fitzgerald. |
| Mr. Wickham. | Mr. Monckton Milnes. |
| Mr. John Wynne. | Mr. Ker Seymer. |

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

The Rev. *Joseph Kidd Walpole*, called in; and Examined.

2422. *Chairman.*] WHERE do you reside?—At Gosport.

2423. What office do you fill there?—Chaplain of the "Stirling Castle," the invalid hulk.

Rev. *J. K. Walpole.*

12 June 1856.

2424. Is that a convict establishment at Gosport?—Yes.

2425. I believe you were desirous of giving some information and suggestions to this Committee upon the subjects of their inquiry?—I was.

2426. Will you have the goodness to inform us what opportunities you have had of becoming acquainted with the subjects into which we are now inquiring?—I went to Australia in the year 1837, and for the first two years I had charge of the convicts, and the population at the same time, in the interior.

2427. As chaplain?—Yes. I was then removed to various posts until I left Australia, in 1848. I left in consequence of the convict establishment being entirely broken up; my services were dispensed with, as they wanted no chaplain, they in fact having no establishment; I then returned to England; after a few months I went out in one of the convict ships, as chaplain, and in a second after that; and on returning I went to Gosport, where I was a few months; then I was 10 months at Dartmoor, in Devonshire, and for the last rather more than three years and a-half I have been at Gosport again, as chaplain; that is where I came from to attend the Committee.

2428. It was as chaplain that you were at all these places, as I understand you?—Yes, every one.

2429. Has your attention been drawn to the expediency of continuing the punishment of transportation?—Yes. It is my opinion that it should be renewed and extended; by extended, I mean carried lower down the scale of sentences.

2430. You refer now to the sentences which are authorised by the Act of Parliament into which we are inquiring?—Yes; which are called penal servitude. They are all called so, I believe, under 14 years.

2431. Do you contemplate that an extension of transportation would be practicable, in fact?—There is a great difficulty, I think.

2432. Have you any information or suggestions to give us upon that subject?—Western Australia is still used for transportation, I believe; it was so when last I heard of it.

2433. Have you any suggestion to make with regard to a more extended use of Western Australia than has hitherto been made for this purpose?—I think that prisoners of lower sentence than those who have hitherto been sent there should be sent there. As there is the machinery already there, it must be ready to receive more, I should suppose, by an extension of it; and it has occurred to me that it would be fair to the colony to give them men of a lighter sentence, and, if we may so say, of a lighter dye besides, than those whom they have.

2434. Upon what ground?—They are not such great offenders. With men, of course, who get 14 years and upwards, to life, their offences must be greater; possibly they may be older offenders, and therefore not such a desirable class of men for a colony to receive.

Rev. *J. K. Walpole.*

12 June 1856.

2435. Does anything else occur to you with regard to this subject of Western Australia?—I think that there, as everywhere, there ought to be proper spiritual superintendence provided with convicts sent out; because, if they do badly here and run wild, they would do so in those countries from other causes.

2436. Do you know of your own knowledge what is the system of such superintendence now adopted in Western Australia?—No, I do not. I believe there is a chaplain or chaplains, but to what extent, whether as to numbers or arrangements, so as to penetrate the interior and look properly after these men, I do not know.

2437. You have relatives, I believe, in Western Australia?—I have.

2438. Have you derived from them any information as to the extent to which transportation could probably be carried, looking to the capabilities of Western Australia?—Only in a general way; that they are desirous of it. Labour, of course, is wanted.

2439. It is still wanted?—Yes. The roads and the bridges in countries like that will require construction for years to come; it must be like New South Wales, and all the other parts of Australia that I have seen. They are excessively wild and cut up by nature, and they require a great deal of outlay and construction to make intercommunications; besides which, there must be much land there which could be settled profitably. I knew many families in New South Wales, the children of convicts, who had fallen under the influence of the chaplains who were sent out there first. There was a band of very good men indeed, laborious, devoted men, and they rendered most essential service to those first convicts who went out; and there were families in various parts of the country who were settled in agricultural farms, and very well conducted and well brought up; and I have heard many of them ascribe the origin of their welldoing to the care they experienced from those first convict chaplains. There were Dr. Cowper, Mr. Cartwright, Mr. Hassell, Mr. Vincent, and several others; so that I think always, where prisoners are sent to these new and wild countries, there ought, among other things, to be an organization for spiritually superintending them, and benefiting them in that way.

2440. Have you any information with regard to any other parts of Australia, as furnishing an outlet for convicts from this country?—I think I have understood that the settlers of Moreton Bay are very anxious for convict labour.

2441. Do you know anything with regard to Northern Australia?—That is not settled. That has only been a proposition.

2442. You have no information which you can give this Committee upon that subject?—No. Port Curtis, I believe, is the place pitched upon, but I have heard it represented that the climate there would be adverse to the health of the convicts, and to getting sufficient work out of them.

2443. I understand that you have no knowledge yourself of any colony which would be available at present except Western Australia?—I think that is all.

2444. Do you know anything of the Falkland Islands?—No; I have thought a great deal about them, and I have talked with people about them.

2445. Have you been there?—No, I have come round Cape Horn three times, and I have heard captains speak very seriously about the benefit which they consider those islands would be to England, to have them regularly equipped for repairing or refitting vessels. I came with a captain who seriously intended to go there; he had troops coming home, and he ran very short of water and vegetables, and he thought very seriously of going into the Falkland Islands, but from the uncertainty that he felt as to whether he would get supplied he went on to Pernambuco, in Brazil. I have also heard a general opinion from passengers of ships, and persons accustomed to go that way, that they think the Falkland Islands would render very essential service if they were so provided to supply the wants of ships. It has often occurred to me that a body of convicts would render that service there as they have done at Gibraltar and Bermuda.

2446. Are there a large number of ships to which they might be useful in a place of that description?—From all that I have heard, I think so.

2447. Coming from whence?—They come from the westward, round Cape Horn; all the ships from Australia and New Zealand come that way except a few. From all that I have understood, perhaps one in 25 will go by the Cape of Good Hope, but the general way is round Cape Horn, on account of the westerly winds, and I should think it would be a very advantageous position as a station for Her Majesty's Navy.

Rev. *J. K. Walpole.*

12 June 1856.

2448. What class of prisoners would you suggest should be sent there?—I have not given that a thought.

2449. Have you had opportunities of observing the operation of the ticket-of-leave system?—Yes, I think so; I may say in a small way. The numbers of prisoners connected with the establishment which I belong to are not so large as at the larger prisons, but we have had a great many prisoners go away on tickets of leave, and I correspond with clergymen, and magistrates and employers, and, when I cannot do better, with the parents, brothers and sisters of the convicts. In some very few cases I get a letter from the man himself, and I have reason to think sometimes that it may be depended upon, sometimes perhaps it may not.

2450. Have you turned your attention a good deal to the practical working of the system since it came into operation?—Yes, I have thought a great deal about it.

2451. From the information you have received, can you express an opinion to the Committee as to whether it has worked well on the whole or not?—I am afraid, latterly, it has not. I hoped well and thought well of it at first. It always appeared to me to be a necessity to adopt the system. Within some recent time I have understood that some of the prisoners have turned out very badly. I do not recollect knowing any direct cases before that; I might have had suspicion, arising from what, I can hardly tell now.

2452. Has this unfavourable opinion, which you have formed latterly, been derived from statements which you thought you could rely upon, or from statements in newspapers, from common report, or how have you come by it?—I happen to think of four cases; I was not certain, although I heard rumours of it at the time, but they were very bad men indeed; accomplished burglars; I had no suspicion of it while the men were with us, nor did I know it for certain until lately, and I think the longer the system continues, and the greater number of these men there are at large the more likely are they, as time goes on, to meet each other and form groups, and perhaps the system itself will get worse when once it does begin to get bad.

2453. Have you the means of forming any judgment of what proportion of those who have been discharged on tickets of leave have turned out ill?—Yes, I have my records, but I have not them here. I supply Colonel Jebb every quarter with them; I could not exactly state now the proportion, but my impression is, that we hear more favourably than otherwise of the bulk, certainly.

2454. How do you mean that you hear more favourably than otherwise of the bulk, will you just explain yourself?—More favourably than unfavourably.

2455. Then do you think that upon the whole the result of the experiment has been successful?—I really think it has answered as well as could be expected; I do not think it has been so unsuccessful as has often been represented.

2456. With regard to the four cases which you have mentioned, where you say you have reason to think that it has been unsuccessful, were those persons who came under your own knowledge again; did they come back to Gosport, or how did you hear of them?—One only has come back.

2457. How did you hear about the other three?—It is matter of notoriety.

2458. How, in the newspapers; or how do you mean?—One by the newspapers, and the others I learnt from a very authentic source the other day; I happened to meet two detectives, and after talking to them awhile I found that they were after two of the prisoners who had been in the Stirling Castle.

2459. How many ticket-of-leave men have you known yourself, or know of, or been brought into personal contact with, officially?—348 to the 31st March 1856.

2460. You have known 348 men liberated upon tickets of leave?—That is the the number.

2461. What proportion of those are you satisfied have turned out ill since their liberation?—I do not think I know for certain more than 20; but I may have suspicion of more.

2462. Your knowledge extends to about 20, you think?—I think so.

2463. With regard to those, how many have you seen again after subsequent convictions?—I do not think more than seven or eight; the others have been disposed of otherwise, by getting new sentences, and so on.

2464. With regard to those others, I suppose you have what you describe as notoriety for it; you have heard the statement, and you give credit to it?—Yes.

2465. That is your experience of the system as far as it has gone. Have you any suggestion to make with a view to the improvement of the present ticket-of-leave

Rev. *J. K. Walpole.*

12 June 1856.

leave system?—I suppose there always will be prisoners who will be liberated after their term of imprisonment; these who are being liberated on ticket of leave are those under the old transportation sentences; I have understood that they are nearly all at liberty; I am not aware whether there is anything contemplated with regard to the penal servitude sentences, of the same sort, to liberate them before their time. Supposing there are any more to be liberated of the transportation sentences, it has occurred to me that the title of the men might be altered.

2466. What alteration would you suggest?—When a name once gets an ill odour, of course the name itself will almost work a man ill, and I have thought that it would be advantageous if each prisoner were to choose some person to whom he would refer the chaplain, because it is through the chaplain that all this is carried on; he makes the preliminary inquiries before these men go, and also inquiries respecting them afterwards; it would be desirable that the prisoner should name somebody to whom he could refer the chaplain, who would correspond with this person, and that the prisoner should go to him and be living in his neighbourhood, with whom a regular correspondence could be kept up, to satisfy the authorities that the man was within his range of view and was doing well, or otherwise; that has occurred to me.

2467. You said something just now about the ticket-of-leave system being adopted with regard to penal servitude; have you formed an opinion as to whether it would be expedient to do that or not?—Yes, I have thought so. I have thought that it is good to give a remission in all sentences.

2468. How should that remission be earned?—By good conduct in prison.

2469. You think it important to give that kind of stimulus for good conduct in the case of a man who is in a state of penal servitude?—I should recommend it.

2470. Would you recommend an extension of the present sentences, and a discharge upon tickets of leave in case of good conduct, after a certain portion of time had elapsed?—Do you mean making the sentences longer?

2471. Yes?—No, I would not recommend that. Do you mean sentences already passed?

2472. No, suppose this case; instead of a certain period of transportation, by law you may now pass a sentence of four years' penal servitude?—Yes.

2473. Is it your recommendation that though that is a sentence of four years' penal servitude, a man should in case of good conduct be practically released at the end of three years, or two years, or any other period?—In the case of a sentence of four years, I should suggest three. I think from all I have observed, that that has been very beneficial, and that on the contrary, those who misconducted themselves might know well that they would be forfeiting what they had it in their power to obtain.

2474. If you had two men sentenced to four years' penal servitude, and one of them behaved well and the other ill, would you release the one who behaved well at the end of three years upon a ticket of leave, and keep the other in for the full period of four years?—Yes, I think that is the application of it.

2475. From your long experience of the habits and feelings of prisoners, are you confident that it is of great importance to give that stimulus of hope, with regard to all classes of persons suffering under imprisonment?—Yes; that is only the natural expression of hope in the human breast; and I know it also as being the feeling of prisoners. I think it was originally adopted with a hopeful view that it would have the effect of inducing good conduct. It has often been observed, that the worst behaved men are the best behaved prisoners. That may be; but I think that all regulations and laws must be general. I think every man must gain benefit by the present system when it is properly carried out as to locality and application of the regulations.

2476. Do you think it is advisable to send them back to the place where they have been convicted?—No, I do not.

2477. Why?—I have understood that that has been done; but that is merely, I should suppose, a piece of administration; that is no legislation. I have understood, that when they go away their expenses are paid to either where they were convicted, or for a similar distance. I do not know whether I am quite correct. It does not seem a proper step that they should go back to where they were convicted, because it often does not happen to be a man's native place, or where his friends or prospects lie. I continually find that a Scotchman is convicted in Somersetshire, or a Cornishman in Kent; therefore it can be no benefit to send a man back to where he was convicted. Certainly not, because possibly his bad associates

associates are in that part; and secondly, none of his friends or relations, if he has any who would receive him and keep him, live there.

2478. On the other hand, I presume there are numerous cases, where, from a man's relations and friends being in the place where he was convicted, his best chance of getting employment would be there?—Yes.

2479. You would suggest, probably, that there should be no invariable rule upon the subject, but that there should be a discretion exercised according to the circumstances of each case?—Yes.

2480. That is a power given by the law at present, is it not?—I think it is.

2481. No new legislation would be necessary for that?—No, but I thought it a point worth noticing, because I have often thought that it did not seem advisable that men should go back to where they had been convicted, as most likely there their bad connexions were.

2482. Have you anything further to suggest with regard to the release of prisoners under tickets of leave?—I believe the Legislature are being appealed to with regard to the houses of refuge; places where prisoners may go who stand in need of such a place.

2483. What do you suggest about that?—I think they are very important places.

2484. Have you considered any practical plan for their formation?—They are mostly in cities, I think, from all I have heard of them. I should think that establishments like that if they were in rural places would be better adapted for the purpose. A sort of transition state between absolute imprisonment and perfect liberty it has occurred to me would be beneficial (I do not know how practicable it would be), and that in some rural establishment.

2485. Are you acquainted with any of these places yourself?—No.

2486. Is there any other suggestion which you have to make with reference to an improvement in the present system of the treatment of prisoners under sentence of penal servitude or of transportation?—I do not remember any.

2487. Or any other suggestion with regard to the objects of our inquiry here?—I would make the general remark, that I think the effect of transportation is very useful in thinning the ranks at home; of course, that is an old truth, and, as has generally been observed, it is very distasteful to thieves and debauched persons who have been accustomed to a dissipated town life; in their case, no doubt, it has a very beneficial effect.

2488. And therefore it is that you are for retaining it, if possible, and for extending it, as I understand you?—Extending it; carrying it lower down in sentences.

2489. So as to take in transportation for 10 years, for instance?—I should think so, and perhaps lower than that.

2490. Have you any other point in your memoranda, which I see you are consulting?—I do not, at this moment, recollect anything else.

2491. Sir *John Pakington*.] I think you stated that previously to holding your present position you had acted as chaplain for a year at the prison at Dartmoor?—Ten months; I was not the chaplain there; I was assisting the chaplain.

2492. Were you there officially?—Yes.

2493. Were you there in constant communication with the prisoners?—Yes.

2494. With constant opportunities of watching the system carried out in that gaol?—Yes.

2495. What is your opinion of the system carried out there as regards its penal effects; is it a severe system upon the prisoners?—It is three years and a half since I left; there appeared to me to be a very excellent discipline carried on there, and continuous work.

2496. Was it a system which appeared to be regarded by the prisoners themselves with dislike, and as being severe in point of punishment?—Yes, I think so.

2497. From what causes; from its amount of work, or from its separation after work; I presume they were all in separate cells there?—They were not all; there were some of the buildings which were devoted to association, but I think I understood, that as much as possible of them, and as quickly as possible, was to be converted into galleries of cells.

2498. Did they work in gangs?—Yes.

2499. Was there anything in the nature of the system carried out there which would be, in your mind, prejudicial to the prisoners themselves if men were

Rev. *J. K. Walpole.*

12 June 1856.

exposed to it for a long period of years?—Do you mean to their moral or their bodily health?

2500. Either the one or the other; either morally or physically?—No; I do not think they were kept there long enough for that.

2501. From the nature of the system do you see any objection, on either physical or moral grounds, to applying it for a long period of years; do you think it would be dangerous to the prisoners, if instead of being there for three or four years they were there for 10, for instance?—I do not think so much good would be done; I think there would be a monotony in it, which would tell injuriously upon men's minds. The present system has various stages, and each is hoped to produce its due effect; the solitary; the public works; and if it could be, the transportation, with the hopes of modified liberty, and then complete liberty.

2502. By stages you mean stages of severity, I presume?—No; different modes of dealing with them; for instance, first of all the solitary portion, which, I believe, is made a maximum now of 12 months.

2503. That is not carried out at Dartmoor, is it?—No.

2504. I am only speaking of Dartmoor?—I should think that keeping men at it for some years would not do.

2505. Why not; do you think it would injure their minds, or injure their bodies?—I think men pine so after liberty, that it would have a very injurious effect, and I do not think they feel that so much when they are under varied courses of treatment.

2506. I presume that from your position as chaplain in these various establishments, you have been in the habit of personal communication with prisoners?—Yes.

2507. Have you been in the habit of communicating with prisoners as to their past lives and their future prospects in life?—Yes, very often.

2508. Has the nature of those communications been such as to enable you to give any opinion to this Committee as to the feelings of the prisoners themselves, with regard to the different modes of punishment?—I cannot at this moment embody that in any exact words.

2509. Have you ever had any conversations with prisoners, which enable you to express any opinion whether they would regard penal servitude or transportation as the severer punishment?—I think I have observed that they look upon penal servitude as the more severe.

2510. Do you know on what ground?—I think chiefly from this, because they have understood that they are to serve out the whole of the sentence. But then it is only sentences of 14 years' and upwards, where they have any prospect of transportation. Men with lower sentences may contrast their condition with that of others sentenced to transportation, but of course they cannot hope for it.

2511. I am not asking you about this modern law, which is a very recent enactment; you have been for a long period in these gaols; do you think that the former punishments of transportation were regarded with less dread and less dislike by the prisoners, than the present sentences of penal servitude?—Decidedly less dread.

2512. You think it was rather a boon to them than otherwise, to be sent abroad?—Yes, to the greater part of them.

2513. Do you think that they regarded the idea of being sent abroad with hope rather than with dread?—Certainly; that I have observed, except where it broke ties which they did not wish broken.

2514. Were there many such cases?—No, very few I think; some well-disposed men, I think, would rejoice at the idea of transportation; men where it had been their first offence, or who, perhaps, had been driven into it, not being naturally vicious; because they would hope in a new society, in a new country, to start afresh and to redeem their character.

2515. Mr. *Adderley.*] Do you know much of other parts of Australia besides Western Australia?—I was never in Western Australia.

2516. *Chairman.* But you were in Australia?—Yes; I was in New South Wales for 10 or 11 years, chaplain at various posts there. I went to Moreton Bay once and Hobart Town.

2517. Mr. *Adderley.*] How long is it since you were in Australia?—About five years and a-half; at the beginning of the year 1851 I left.

2518. Does your knowledge of Australia enable you to form any judgment as to the prospects of their dislike of transportation at all diminishing?—I should think it would not diminish; that is, as to New South Wales especially, and I believe

believe now the feeling is very strong in Tasmania, or Van Diemen's Land; Hobart Town. In Victoria, which used to be called Port Philip, they never had convicts, but their feeling is very strong against released convicts coming there.

2519. Can you state, having been 10 years in New South Wales, what the feeling of New South Wales would be with reference to any project for transporting to Moreton Bay or to North Australia?—I cannot tell what shape the feeling of opposition would take, but I think it would be very strong.

2520. Do they look upon Moreton Bay as so near to themselves that their interest would be involved in a system of transportation there?—That is the feeling. Moreton Bay, I believe, would wish to be made into a new colony; but the people of New South Wales will not hear of that; upon what grounds I do not know. I do not think North Australia would answer.

2521. Upon what ground?—The climate is too hot; it is a little way, I believe, within the tropic of Capricorn.

2522. In advocating transportation, or the renewal of transportation, what countries have you in view as being available for the purpose?—I think transportation should be extended to Western Australia, and made more numerous than it is in individual numbers; and I think the Falkland Islands might be turned to account. I think works might be constructed there which would occupy convicts for some years, and which would render very great service.

2523. Is the nature of the transportation which you propose to us to resume, that of forming depôts for public works in various parts of the world?—In that instance it would be so.

2524. Do you think any other kind of transportation possible, such as sending convicts to extensive communities to be absorbed amongst them?—Do you mean that they should land as exiles, as you may call them, to begin with?

2525. In any other way than their employment on public works, which is what you have alluded to?—No; I could not suggest anything at present.

2526. In what way do you consider it preferable to employ convicts on public works abroad to employing them on public works at home?—Because sending them abroad would involve transportation; sending them out of the country.

2527. In what way would it be better to employ convicts upon public works in the Falkland Islands than to employ convicts upon public works on Portland Island?—I think the Falkland Islands might be settled by them afterwards; especially those who had families. The plan has been adopted for some years of sending men's families out after them; and I think, after their term was out, if they were assisted to settle with land, and their families brought to them, there is plenty of available space in the Falkland Islands for them to do so.

2528. From your experience of Australia, do you consider that the worst class of prisoners, namely, those who are sentenced to long terms, and who, by the recent Act, are the class to be transported, are the best class to transport?—I do not think I can make any general statement about that.

2529. Are they the class with which you would hope to settle the Falkland Islands after the process of public works there?—I think, in the case of men who had families, there would be an inducement to them to settle down after the course of discipline which they had been under, and that they might be hoped well of.

2530. How do you propose getting their families out to them?—That has already been done in the cases of those who have been sent to Australia; the men have to remit a certain portion of their earnings which they may receive for public works.

2531. In what way do the Australian courts deal with their own class of criminals?—They sentence them to work on the roads, and there used to be a place near Sydney, an island in the harbour, where they had great numbers; 300 or 400, I believe.

2532. After their completion of a term of public works, what became of them?—I do not exactly know; I think that they returned to liberty in the colony again; that they had sentences of one, two, and three years.

2533. Mr. *Seymour Fitzgerald.*] Are you at all acquainted with the position and circumstances of Harvey Bay, where it was proposed to make a convict settlement?—No; but I think it must have been when I was out there that there was an expedition which went up; two or three, if not four ships; I think Colonel Barney had the charge of it; I believe they landed, but found that it was not at all suitable for the purpose, and, I believe, it was relinquished again.

Rev. *J. K. Walpole.*

12 June 1856.

2534. You have no personal knowledge of it?—No; I may observe that there was an attempt made to establish a settlement, not a convict settlement, at Port Essington, at the very north of the Australian continent. That was kept on for I do not know how long; I believe a few years; but it was found that it did not answer; the climate was so capricious, and it was so trying from the heat, or storms of rain and wind, that they were obliged to relinquish it; and I believe that all those tropical regions of Australia are subject to that objection, which renders them unsuitable for those purposes.

2535. Are you at all acquainted with the circumstances or position of the Chatham Islands?—No, I have seen them in passing only. Do you allude to the copper? they contain copper.

2536. Generally to their circumstances as being fit for settlement; and more particularly for settlement with a view to the transportation of convicts?—I thought you might allude to mining in them; that the convicts should raise the ore.

2537. Are you acquainted with their circumstances; whether, for instance, the mines are of value, or whether the climate is unfavourable?—I believe that in New Zealand, and every part connected with it, the climate is extremely healthy.

2538. What is the distance of the Chatham Islands from New Zealand?—I should think about 500 miles. I think they lie more to the eastward; out in the Pacific Ocean.

2539. Mr. Serjeant *O'Brien.*] I understood you to say to the Chairman that you should wish to see transportation renewed?—Yes.

2540. And you told Sir John Pakington that you thought that the prisoners dreaded penal servitude more than transportation. Will you have the goodness to explain that?—That is to say, more than a similar sort of prisoners would have dreaded transportation formerly.

2541. If penal servitude is a greater object of dread than transportation, why do you wish to see transportation renewed?—One object which I think it would produce would be to thin the ranks of those in England who are liberated at last.

2542. *Chairman.*] That they would not return?—They would not return to this country. I have heard it said in Australia that the proportion of those who return after transportation is thought to be about one in 100. That was considered to be about the proportion.

2543. Mr. Serjeant *O'Brien.*] Is there any other reason why you should wish to see transportation restored, although the prisoners dread penal servitude more?—I think they chiefly dread penal servitude, because they understand that they will have to serve the whole of the sentence out, and I was advocating that there should be a remission in that.

2544. I am asking you whether there is any other reason for your preferring the renewal of the system of transportation besides the one which you mentioned about this country being freed from the presence of the convicts?—I think, when prisoners are taken into a country like Australia, or any other where transportation should be established, there is a very far better opening for them afterwards, which I think is a very great object.

2545. Do you think that it is a stronger inducement to good conduct on their part, having to spend the rest of their lives in a foreign country, than if they remained here?—I do not know that it is that which weighs mainly, the prospect that they will never see their own country any more, but I think, when once they are liberated, there is a wider field for such men to get on. In the old colony of New South Wales the cases were innumerable. I have known a great many persons who had risen to a highly respectable station in life who had been convicts; I think that is one great benefit of transportation. Then I think it is very important that they should not be sent abroad without due spiritual oversight, and sufficient provision made for looking after them, and knowing how every man is getting on. The system hitherto has been that they have been transported, and either kept at Government works, where of course they could be looked after, or scattered all over the country; and it is a country with great difficulty of communication. Perhaps numbers of these men would not be heard of for years, and they would run perfectly wild, because there were no systematic arrangements made for benefiting them, seeing after them, knowing about them, and arousing them.

2546. Mr. *Beckett Denison.*] Have you been in the colony since gold was discovered?—No; it was discovered four months after I left the last time.

2547. In a former part of your evidence, you said that you thought that very long confinements would be injurious to the health of the prisoners?—I think I was asked about the continuance of the system; say at Dartmoor.

2548. Penal servitude?—Yes.

2549. Will you explain to the Committee in what particular way you think that long penal servitude would be injurious to a prisoner?—I think I was contrasting it with the opposite of adopting transportation, where, in a country like Australia, men would sooner get first a modified liberty, and next complete liberty, which I think is better adapted for men both in body and mind. Perhaps my place is not a good field of observation; they are invalids in the "Stirling Castle," and being always on board, I dare say it tells more heavily upon them than it would upon men employed in out-door work, so that possibly my opinion may not be of worth in this respect.

2550. Do you know of any instance of the health of a prisoner being materially affected who has been employed on the Dartmoor works, or at Portland?—No; but I was not at Dartmoor while this penal servitude was in operation.

2551. Have you any reason to think that the minds of the prisoners employed on the Portland works or at Dartmoor, would be affected by a long penal servitude; you say their health would not be affected in your opinion; would their minds be affected?—I think the mind and the body mostly suffer together.

2552. Then if you are of opinion that the mind would suffer, the health would suffer. You said in a former part of your evidence that long penal servitude would be injurious to a prisoner; I want to elicit from you, who have had considerable experience, in what way it would be injurious?—On further consideration, perhaps, I am not competent to give an opinion; because now I remember that my observation of these penal servitude sentences is on board the "Stirling Castle" hulk, which is an invalid establishment, and there they are always confined; they never go on shore at all, and that, and many other circumstances, I think, tell greatly both upon the body and the mind. With regard to these men under penal servitude sentences, I have observed how they pine and moan at the thought of being kept to the end of their sentence; I, only thinking of them, gave the opinion which I did.

2553. That is, of the men confined on board the "Stirling Castle"?—Yes.

2554. Do you know any reason why 200 or 300 prisoners employed in work at Dartmoor or at the Portland works, properly fed, and taken regularly to their employment, should not maintain their health as well as any other of Her Majesty's subjects?—I do not know that they would do so as well as any of Her Majesty's subjects, but as well as prisoners could be expected to do. I dare say the same care is taken of them at Dartmoor now as was when I was there; there they were well fed and well worked, so that perhaps penal servitude prisoners under those conditions might work their time out as well as not. My object in advocating a remission was, because I think, from all I have observed, that it would act very beneficially.

2555. In what respect?—I think it keeps up hope; that is to say, it places a boon within a man's hands.

2556. It has an effect upon the mind of the prisoner?—Yes.

2557. Has it any effect upon the minds of the population who are likely to commit crimes?—No, I should think not; because, in the case of a penal servitude of four years, three years, I think, if it is administered with certainty and sharpness, ought to be deterrent.

2558. If it is the duty of Parliament to endeavour to devise a plan by which they can deter parties from committing crimes, do you think it is part of their duty to make such an arrangement as will give the prisoner hope of a better state of things, instead of a long penal servitude?—With the object that I mention, I still think it would be beneficial to remit a certain portion of the sentence; that is to say, to give the prisoner to understand that he has it in his own power whether he will gain that remission, or whether he will forfeit it, and have to serve the whole time.

2559. I am afraid I have not made myself understood. Assuming that the duty of Parliament is to devise a plan by which they can deter parties from committing crime, do you think that it is advisable to lay down a plan by which hope will be held out to a prisoner that he will be transported instead of being confined for a considerable time in prison, and that it is desirable, on that account, to resume transportation instead of penal servitude?—Yes, I think that might be one reason why it should be resumed.

Rev. *J. K. Walpole.*

12 June 1856.

2560. Would it have the effect of deterring parties from committing crime. If transportation at the end of a short penal servitude is a milder punishment to a prisoner than a long penal servitude, would transportation following penal servitude deter the party from committing crime more than a long penal servitude?—It might not; I have never made that contrast.

2561. Mr. *Deedes.*] You said in an early part of your evidence, speaking of the ticket-of-leave system, that you thought it was objectionable to send parties back to the places where they had been convicted?—Yes.

2562. Have you any suggestion to offer to the Committee as to any other mode of disposing of them; when they are so furnished with tickets of leave, what would you do with them? You were giving your opinion, as I understood, of the general working of the ticket-of-leave system, and I understood you to find fault with that portion of it which caused men to be sent back to the places where they had been convicted. Is there any other course which you can point out?—I have several times since thought that perhaps I should not have made any remark upon it, because I almost think it is a mere matter of detail and administration with the Home Office in sending them back to their places; possibly a representation only would have sufficed.

2563. *Chairman.*] With regard to the Falkland Islands, I wish to understand distinctly your opinion. You seem to think that the Falkland Islands do hold out a prospect of another outlet to a certain extent for the reception of our convicts. Am I right in supposing that the grounds upon which you recommend it are that that arrangement would give profitable employment to a body of convicts for years to come, in equipping the islands as a naval station, and as a calling-place for merchant ships coming from the westward round Cape Horn?—Yes, their position is one reason which I had for suggesting them.

2564. Would that class of ships comprise those coming from the western coast of South America, from New Zealand, and from the Australian ports?—And from California. I believe the ships are very numerous indeed that come round there.

2565. And from those places which I have mentioned?—Yes; and I have very often heard it said that the Falkland Islands would offer a very convenient calling-place for them after they had had all the tempestuous weather in coming round Cape Horn; that they could call there for many things.

2566. For repairs and refitting, and taking in water and provisions, and vegetables and so on?—Yes. The position of those islands is one thing; secondly, it would give another place for convicts, in case Western Australia or some other place should be overstocked, and could not receive any more.

2567. At present can these supplies be depended upon at all at the Falkland Islands?—Not at all, I believe.

2568. Have you heard that made matter of complaint by persons, captains and others?—I have. Then, again, I think the Falkland Islands are sufficiently extensive to settle such convicts, as it would be desirable to settle there after their time was out; I believe the two largest islands are together about the size of Devonshire.

2569. But an immediate and an important use, as I understand you, would be to furnish preparations for supplying the wants of all those classes of ships which we have spoken of?—Yes, that was the object which I had in view, and as a receptacle for convicts.

2570. Mr. *Adderley.*] Is the largest of the Falkland Islands larger than Norfolk Island?—A great deal.

2571. Twice as large?—The largest island is about half the size of Devonshire.

2572. And what would Norfolk Island be?—Norfolk Island, I believe, is 15 square miles.

Police Serjeant *Mark Loome*, called in; and Examined.

Police Serjeant *M. Loome.*

2573. *Chairman.*] ARE you a Serjeant of the B. Division of the Metropolitan Police?—I am.

2574. How long have you been in the Metropolitan Police Force?—Very nearly 14 years.

2575. During that time, have you had a great many prisoners in your custody on various charges, both serious as well as others?—Yes, I have had a great many cases; I may say, almost as many cases as any man in London during that time. I am chiefly employed in the detective department attached to the B. Division.

2576. Have

2576. Have you often conversed with prisoners and persons who have returned from transportation?—I have, repeatedly.

2577. In what terms have they been accustomed to speak of it?—When I have seen men whom I have known to have been transported, I have stopped them, and asked them how long they had been home, and I have frequently given them 1 *s.* or 1 *s.* 6 *d.* out of my own pocket, when they have told me that they have had nowhere to go. Then I have had them in custody, perhaps, two or three months afterwards. They have said, "I hope I shall not get more than two years' imprisonment; I do not care if I do not get more than two years' imprisonment, if they do not transport me. I would much rather have two or three years' imprisoment than be transported."

2578. Have they generally expressed a great horror of the punishment of transportation?—Yes; in general most of them say they would much rather have two, three, or four years' imprisonment than be transported for seven years.

2579. Does that apply to all classes of prisoners?—Both men, women, and boys, of all classes. I have had conversation with them, more especially about Westminster, the district to which I belong; we have a great many.

2580. During the whole time of which you have spoken, namely, 14 years, has this been the effect of the conversations which you have had with persons who have come back from transportation?—I may say for the last 10 years.

2581. Sir *John Pakington.*] And up to the present time?—Up to the present time. I was talking with one only yesterday, after I saw Sir Richard Mayne. I thought I would get more information, if possible.

2582. *Chairman.*] What was the conversation which you had with that man yesterday?—The first time I saw him was the day after he came home.

2583. Mr. *Wickham.*] How long has he been home?—About three weeks. I said, "I hope you will get some work." He said, "Yes, if I can." I saw the man afterwards myself yesterday; he said, "I have nothing to do at present." I said, "If I can assist you in anything, I will. Do you intend to turn honest? I hope you will." He said, "I hope I shall, but I can do nothing. I would rather do anything than be transported again."

2584. Sir *John Pakington.*] Where was he returned from?—From Portland.

2585. *Chairman.*] Then he had not returned from any colony?—No, he had never been out; but I have had conversation with men who have been to Bermuda and Gibraltar; they one and all say they would almost rather suffer death than be transported.

2586. That is, to Bermuda or Gibraltar?—Yes; I have had a conversation with thieves from both those islands respecting the transportation.

2587. When you speak of persons returning from transportation, with whom you have had conversations during the 10 years, were those persons who had returned from Bermuda and Gibraltar, or from some of the colonies?—From Bermuda and Gibraltar, and other colonies as well. I have known them to have been transported and have not been aware what colonies they have been to. I am satisfied that they have been transported.

2588. Have they returned from Van Diemen's Land?—From Van Diemen's Land and Norfolk Island too; and several of them unfortunately have been convicted since, and sent to penal servitude.

2589. Do you mean that they all, whether from Van Diemen's Land, or Norfolk Island, or Bermuda, or Gibraltar, express a horror of this punishment of transportation?—They do; one and all that ever I have anything to do with.

2590. Do they express a greater horror of that than of any other punishment?—They express a greater horror of that than of imprisonment; I have had men in custody who have repeatedly said to me, "Well, how shall I get on, Loome?" I have stated "I cannot say." They have said, "Well I hope they will not transport me; I do not mind if I do not get more than two years or three years;" that is a general feeling. I think the name of transportation, and sending them out of the country, deters them in a great measure.

2591. Have they given you reasons for their dread of it?—They have been so badly treated, they say; confined in a ship.

2592. Do you mean that the hardships which they have gone through have been so great?—Yes; they have been confined in a ship, perhaps, two or three years before they left England. I have said "What do you mean by the horror of transportation?" They have said, "We are confined perhaps two, three, or four years on board some ship before we go out, and after we get out, we are worked in

Police Serjeant *M. Loome.*

12 June 1856.

in gangs; and then when we get our liberty out there, we cannot get back. If we get imprisonment here, on our discharge we are at home again."

2593. You say that they all seem to have a greater horror of transportation than of any system of imprisonment in this country?—A great deal more, in my opinion, from what I have heard from them, both women and men. I am sorry to say that I believe we have more thieves in London now than ever I saw in my experience in the force.

2594. When you say that they are more afraid of transportation than of any other punishment, do you mean by transportation the punishment which a man suffers by being sent to Bermuda, or to Gibraltar, or to Van Diemen's Land, or to Norfolk Island, or to any place beyond the seas?—I do; they seem to dread more being sent out of the country than they do imprisonment in this country.

2595. You said just now that you had more thieves in London, you thought, than you had ever had?—I think so; in my experience I have seen a great many ticket-of-leave men about; they are about the streets.

2596. Are many of those whom you now speak of ticket-of-leave men?—I think we have about 50 in the neighbourhood of Westminster now. I generally keep a return at home of all that I see come home, for my own information, if it should be required at any time.

2597. How do you know that they are ticket-of-leave men?—I have known them before they were transported, and after they have come home I have got into conversation with them; they have showed me the tickets of leave, and I have asked them about them.

2598. Does that apply to the whole of the 50?—I should think 50.

2599. Then have you satisfied yourself by seeing the tickets, or from conversation with them, that they are ticket-of-leave men, and not persons whose sentences have expired?—The greater part of the sentences have not expired, and the greater part of them have been tried and convicted since.

2600. Were those persons having tickets of leave?—They were. And there is a system with the ticket-of-leave men on arriving now in London (I know two or three) of getting a gang of little boys out with them picking pockets about the streets. These men are frightened to commit any act themselves, and the boys commit the offences, and the men receive a great part of the profit. I know a man living in Westminster who has been back four months, who has no less than 20 boys and girls of, perhaps, 12 to 16 years of age, and one of them is waiting for trial.

2601. Where did he come from?—I am not exactly positive whether Bermuda or Gibraltar; but it is one of those two places.

2602. You are sure that that man has come home on a ticket of leave?—I am confident of it.

2603. How do you know it? I have seen it; I think he has been away three years next month.

2604. Mr. *Adderley.*] Will you describe the ticket of leave which you saw?—It is on parchment, with his name.

2605. *Chairman.*] What does it state?—It is a pardon, or a ticket for good conduct during the time that he is under sentence.

2606. Mr. *Beckett Denison.*] Have you been in the habit of seeing the tickets of leave granted to prisoners?—Yes, I have seen several.

2607. And is that one like them?—Yes; I saw the man transported.

2608. *Chairman.*] Is it an instrument authorising the man to be at liberty, with conditions printed on the back, informing him that in case of misconduct he will be liable to have his ticket revoked?—It is.

2609. That is what you mean by a ticket of leave?—It is; it is printed on both sides.

2610. Mr. *Adderley.*] You have seen that ticket of leave, will you describe the terms upon the back of it?—I do not think I can repeat the words, but I know it is printed on both sides.

2611. You stated that it was both a pardon, and a ticket of leave; which is it?—I think it is on condition that he is to conduct himself as he ought to do until his time expires, which is seven years; but the exact words I cannot say.

2612. Is it to be at large in any particular place?—I am not positive about the words; I can ascertain the facts, and I have no doubt I can get the ticket, if it is required.

2613. *Chairman.*] Will you do so?—I will endeavour to do so.

2614. Mr.

2614. Mr. *Adderley.*] Is there any difference between that and a conditional pardon?—I think there is.

2615. What is the difference; what is a conditional pardon?—A conditional pardon is, not to be called upon for misconduct; by what I understand, a ticket of leave is, that if they misconduct themselves they are liable to be taken into custody again to serve the remainder of the sentence: a conditional pardon is given to a man who is not liable to be taken again unless he commits some crime. This man has been away about three years out of seven.

2616. *Chairman.*] When you have been speaking of ticket-of-leave men, have they been men having such an instrument as you have now described, namely, a ticket authorising the party to be at liberty, with conditions printed on the back of it, that it may be revoked if he is guilty of misconduct?—That is so.

2617. That is what you mean by a ticket of leave?—Yes; for instance, if a man commits himself, and gets three months from a magistrate, he is sent back again; I know of several occasions where they have been sent back again, having housebreaking implements in their possession, and being found in improper places committing any offence.

2618. What are the kinds of offences that you have found these ticket-of-leave men committing?—Some have been sent away for housebreaking, to very heavy penal servitude, and for highway robbery. They may commit many offences before they are detected: they may commit 20 very serious offences before they are detected, after coming back; and I have seen them the same day that they have come back with their old companions again.

2619. Have those men had an opportunity of getting into work, do you know?—I do not think they ever tried; I have seen them when they have come back, in a day or two, and they are continually, day and night, with these parties with whom they associated before they were transported, a great many of whom have been in prison repeatedly; drunk about the streets with females. I think there is an exception; I think some men go to work; I know several who go.

2620. You have spoken of those who have misconducted themselves; have you the means of knowing whether many ticket-of-leave men have conducted themselves well on their return, and what proportion they bear to those who have conducted themselves ill?—I think the majority have conducted themselves very badly since they have been home; where one is reformed after coming back, I think I may say 10 or 20 return to their old habits again.

2621. Probably those who conducted themselves ill would be more likely to come within your knowledge afterwards than those who conducted themselves well?—No; I have seen men about conducting themselves well; I have never taken any notice of them.

2622. You have no particular reason I suppose for taking notice of those who are conducting themselves well?—I take notice to see how they are going on, and see that they are at work; I am very happy to see that they are at work; I never interfere with them; but when a man associates with bad characters after coming back, we keep our eye on him much sharper than on the others.

2623. You say that you know some men who are living now, maintaining themselves by industry, having these tickets of leave?—Yes.

2624. In Westminster?—I know one, who I think is working now somewhere on this building.

2625. How long has he been working there since his return?—I think he has returned about nine or 10 months, and my information is, that he has been at work here for the last three or four months as a duster I think, or something of that sort; I frequently see him, and I am informed that he is working in some part of this building, I do not know which.

2626. Do you know other cases?—Yes; I know of another case where a man is working as a shoemaker now.

2627. How long has he been so since his return?—I think he has been home about 12 months, and pretty well all the time he has been at work. I know another man at work as a navigator, he has been home about five or six months.

2628. Are you not more likely to know of those who misconduct themselves on their return, than of those who conduct themselves well; those who misconduct themselves come immediately under the notice of the police, do they not?—They do, and likewise those who conduct themselves much better, for I am in the habit of knowing them; I frequently see them about, and see their habits, whether

Police-Serjeant *M. Loome.*

12 June 1856.

whether they are doing good or bad, or whether they are at work, or returning to their old habits; I take notice of them all.

2629. If you knew a man to be a ticket-of-leave man you would probably keep your eye upon him?—Yes; if I saw that he was an industrious honest man, anxious to get his living, I should never interrupt him. I should only keep my eye upon him.

2630. May there not be many men who have tickets of leave, of whom you do not take notice, either from not having known them to be such in the first instance, or from their conducting themselves well?—Yes.

2631. What numbers of those persons there may be you probably do not know?—There are a great many, I have no doubt, that I do not know.

2632. And how many you could not at all tell?—No.

2633. What you say is, that there is a certain number of persons whom you know to be ticket-of-leave men, who have unfortunately conducted themselves ill, and to whom your attention has been drawn?—Yes, the majority of them have conducted themselves very badly.

2634. Of those whom you have known?—Yes.

2635. Does it occur to you that there is anything which can be done for the improvement of the ticket-of-leave system?—I think if it was revoked to the old system of transportation, it would have more effect upon these men.

2636. You mean, if you could go back to transportation?—Yes, I think so, because the general conversation that I have had is as to the horror of transportation. Some of them have repeatedly said to me, when I have had them in custody, taking them before a magistrate, "I am better in prison than out. I do not mind if they do not give me more than two years. I hope they will not transport me." That is the general feeling.

2637. Transportation has more of a deterring effect than any other punishment?—Yes.

2638. Do you know how they regard penal servitude?—I have not had any conversation about penal servitude.

2639. You have been speaking of the ordinary imprisonment?—Yes. I think there are very few of the penal-servitude prisoners out yet. I know one woman who was under penal servitude, who is out.

2640. Have you heard any persons express any particular feeling with regard to the apprehension of the punishment of penal servitude?—I have heard them say that they do not care if they are not sent out of the country. They do not mind two, or three, or four years' imprisonment, if they only are not sent out of the country.

2641. Have they changed their tone at all since the gold discoveries were heard of in Australia?—No, I think not.

2642. Do they still express the same horror of being sent abroad?—Yes.

2643. And wherever they are sent to?—Yes, from what information I have obtained from them. I have asked some men who have never been transported what they mean, and how they can say that they would rather have imprisonment than transportation. They say, "I do not know, but 'Jack,' or 'Bill,' or so-and-so, has told me." Some of their companions tell them of the horrors of it.

2644. You say you have known many of these men out on tickets of leave: have you ever in any way communicated with the persons in whose employment any of them were, and informed them that they were ticket-of-leave men?—Never.

2645. Have you any instructions upon that subject, how to conduct yourselves with regard to these ticket-of-leave men?—Our instructions are, that if we see a man after being transported employed, we are not to say anything about him, but to keep our eye upon him; not to tell his employer where he is at work anything about him.

2646. Do you believe that those instructions are duly observed, and fully in force, as far as you have observed?—Yes, I think so.

2647. You observe them yourself?—Yes, and my brother constables, when we have been out together, have never interfered with those men at work.

2648. The policemen understand that that is the proper way of conducting themselves with regard to those men?—Yes; it is a rule from the Commissioners not to interfere with a man getting an honest living, but that when you see a man returning to his old associates, and out day and night, you are to keep an eye upon him.

2649. Mr. *Adderley.*] When you talk of a great number of men with tickets of leave, can you tell me at all what the nature of a ticket of leave is?—The nature of a ticket of leave is, that they conduct themselves well during the time they are in prison, or wherever they are sent, and from that they get a ticket to come into London again, or wherever they were from, and then if they misconduct themselves, again, a magistrate has the power, through the Secretary of State, to order them to be taken into custody again for the remainder of their imprisonment or transportation.

2650. And what do you consider to be the terms of a conditional pardon?—I should think the same as a ticket of leave.

2651. If you do not know, say that you do not know?—A ticket of leave would be a conditional pardon, because there is the power to order a man into custody again.

2652. When you have been talking of tickets of leave throughout the whole of your evidence, you know no difference between a ticket of leave and a conditional pardon?—I believe one is the same as the other.

2653. *Chairman.*] By a ticket of-leave man you understand a person in possession of such an instrument, with such an endorsement as that which was just now mentioned?—I do.

2654. Mr. *Adderley.*] You are not aware of the difference between a conditional pardon, under the former Acts, and a licence to be at large in this country under the last Act?—No, I am not.

2655. When you said that there was a man working upon these houses who had a ticket of leave, and who had returned several months, are you aware where he returned from?—I think it was Gibraltar; I am not sure exactly.

2656. In all the returns which you have talked of, have you spoken from positive knowledge, or from an impression in your own mind?—From my own knowledge.

2657. That they have returned from abroad?—Yes.

2658. But from where abroad you do not know?—Some of them I have been told by the parties have come from Gibraltar, some from Bermuda, and some from Norfolk Island, they have told me; the only information which I have had has been from getting into conversation with them after they have come home.

2659. Do you know of any men who have returned from any other places besides those you have mentioned?—Not from foreign countries; only from Portland, and Woolwich, and Gosport; those who have never been sent abroad.

2660. When you talked of the horror which returned convicts had of transportation, did you speak from any conversation which you had had with them?—Yes.

2661. Will you state any descriptions of such horrors which any of these men have given you?—Yes. I have been told repeatedly that from the time they are transported, they remain in prison two, or three, or four years in London, and also on board the hulks; and after they have been sent out they have been worked in gangs, and rather than remaining in London in prison, or in the hulks, and going out in gangs, they say they would prefer three or four years' imprisonment; and they say that when they are liberated they are in their own country; whereas, when they are liberated in a foreign country, they are not able to get home, some of them.

2662. You say that "Jack" and "Bill," and their friends who have returned from various places, tell them of the horrors which they have suffered?—They do; so they have told me; it is a common conversation in public-houses.

2663. Have you ever heard of any horrors beside those which you have related of the gangs, and the hulks, and the various kinds of confinement?—I have of their being so very much more strict abroad than at home; they say they are punished so much more severely abroad than they are in London.

2664. Do you know of any convicts who have gone abroad and have remained abroad?—Yes.

2665. Have you seen any letters from those who have remained abroad, or have you received any letters which give you knowledge of the way in which they are going on?—I have read a letter from one who is abroad now, which he sent to a friend of his. I think it is about two months back.

2666. Do you know where that was from?—From Bermuda.

2667. Was he released in Bermuda?—He had a ticket not to leave the island, and he was living with a gentleman as a servant.

2668. Have you ever seen letters from convicts in Australia whose sentences have

Police-Serjeant *M. Loome.*

12 June 1856.

have expired?—No; I have heard through other parties who have come home and seen them there; there is a man who has come home lately. I believe his time was up; he has taken a fish shop in Westminster; he was transported for 14 years, and the man with whom he was transported I asked him about; he said that he is doing very well now. His time is up; he is keeping a shoemaker's shop in Australia. They were both transported at the same time for one offence.

2669. The principal complaint which you yourself allude to, seems to be the difficulty of getting work after the sentence has expired?—In England.

2670. Generally?—I think that is the general complaint in England.

2671. Under which kind of punishment do you suppose that the difficulty of getting honest employment at the conclusion of punishment would be greatest, in Australia or in England?—I think in England.

2672. Mr. *Massey.*] You say that you have observed a great increase of thieves lately; can you account for that in any way?—By these ticket-of-leave men coming home.

2673. The liberation of men upon tickets of leave?—Yes; and not only that, but they associate with a number of boys, and encourage these boys; they put new clothes on the boys' backs; they take them out thieving, because they do not like to commit any offence themselves, as they know that they will be sent back again.

2674. Then am I to understand you to say that there is an increase of juvenile criminals?—There is, to a very great extent, in London.

2675. From what period do you date that increase; how long have you observed it?—I should say within these last three or four years; two years, perhaps; and the greater part of them, I think, are very much neglected by their friends.

2676. Are the criminal pursuits of these children directed by ticket-of-leave men?—In general; there are both boys and girls; there are a great many boys about London now dressed up so that you would think they were of the most respectable families in London; they are dressed up with fine suits of clothes on, and lay-down collars; they go to church, or any public place of amusement, flower-shows and theatres, for the express purpose of picking pockets.

2677. Is that anything new?—It has been more numerous these last two years than I ever saw it; I have seen it some years back, but I think it is more numerous now; and whenever you see a gang of these boys you will see a ticket-of-leave man with them, some distance off; they meet at public-houses of a night.

2678. Do you know any particular houses which are frequented by ticket-of-leave men; I do not ask you to name the houses, of course?—I do; of some houses we have cautioned the landlords, so that they will not allow them to meet but very little now; we have cautioned the landlords that we should summons them if they harboured them.

2679. Do you find, when you apprehend a man on a charge, that he is disposed to be communicative, and talk to the policeman about his prospects of conviction, or prospects of escape?—That depends upon what sort of policeman may apprehend him; some men may have had more experience, and know how to deal with these men better; they get into conversation and get information; some men who have been in the force a very short time do not understand this sort of thing perhaps so well.

2680. What is your experience upon that point; have you generally found thieves disposed to be communicative when you have apprehended them, relative to their chance of escape, or their probability of conviction?—The principal conversation I have had with them is, that they do not care if they do not get more than two years' imprisonment, or 12 months'; they call it "a stretch;" that is their common phrase; they say, "I do not care if I do not get more than a stretch;" that is, 12 months. Perhaps when they have been picking pockets, they say, "I do not care if I do not get more than three months;" "a drag," that means three months' imprisonment. That is their conversation amongst each other, and they generally use that term.

2681. But they generally express a great horror of transportation?—They do, all that ever I have had in custody; and I have had a great many.

2682. Do young thieves express the same horror as the older people?—They do.

2683. Thieves who have never experienced it?—When you have a boy in custody

custody who has been perhaps two or three times convicted; the first thing he says on being apprehended is, "What do you think I shall get?" "I cannot say." He will say directly, "I do not care if I am not transported."

2684. Mr. *Beckett Denison.*] In a former part of your evidence you said, that there was a man in Westminster who had a certain number of young people around him, whom he was teaching to thieve, and that one of them would be tried very soon?—One of them is being tried to-day, I believe; he is committed for trial to-day, and the Sessions are on.

2685. Will any evidence be given to the Court as to the boy having been under the superintendence or the guidance of the man in question?—No. If the man was in custody with the boy, the Court would be made acquainted with the habits of the man since he has been home.

2686. Are you aware, that the simple fact of a man with a ticket of leave encouraging these young people, either boys or girls, to behave improperly and commit small thefts, would be a sufficient ground on the part of the Secretary of State to withdraw his ticket of leave?—I have made reports to the superintendent upon this very thing myself.

2687. Are you aware that that would be a sufficient ground for withdrawing the ticket of leave?—I believe it would.

2688. Do you suppose that a man like the one to whom you have alluded is aware of that fact?—I do not know whether he is or not.

2689. Is it or is it not part of your instructions as a policeman to tell any of these men, whom you know to have tickets of leave, that if they do not conduct themselves properly they will be reported, and their tickets of leave will be taken away from them?—We never had such instructions as those.

2690. Can you tell me whether these men, either returning from transportation or being let out on tickets of leave, commit the same description of offences of which they had been previously convicted, or do they attempt smaller offences?—They vary; they commit different offences; housebreaking and highway robbery; chiefly highway robbery.

2691. Does a man convicted of burglary, and returning, commit burglary?—Yes.

2692. And a man convicted of highway robbery, highway robbery?—They frequently, after they come home, turn to uttering counterfeit coin, because, if they are once committed for uttering counterfeit coin, it is only a misdemeanour, and they can perhaps only have 12 or 18 months. They cannot transport for a misdemeanour; and these fellows are aware of that, I have no doubt, and that is why they do it.

2693. Is it your opinion that they return and commit the same species of crime of which they have been previously convicted?—Some of them do; not all.

2694. Do you think that the Act of 1853 has worked beneficially for the public or not?—I think not.

2695. Would you believe that out of every 100 tickets of leave which have been granted, not more than 20 of the holders of them have returned to crime?—I do not think I could answer that question.

2696. You can give your opinion?—I should say quite that.

2697. Supposing that 100 men had got tickets of leave, should you think that since the Act passed in 1853 more than 20 of them had been re-convicted of crime?—I should think so.

2698. Then, if you were told that not more than 8 out of every 100 had been re-convicted, could you believe that statement?—Possibly it might be in some other district, and not in London.

2699. As a whole?—My opinion would be that the number was more than that. Many a man may commit 20 offences, as I said before, before he is caught, and very serious offences.

2700. Your opinion seems to be that the Act has failed with regard to tickets of leave?—That is my opinion. I think it has worked very badly. The fellows impose upon you, and turn out very badly, a great many of them.

2701. Mr. *Deedes.*] Do you know any instance of a ticket-of-leave man having been deprived of his ticket of leave, unless he had been again convicted?—No, I do not; by summary conviction he has been deprived of it; that has been the case with several, to my knowledge; that would be by a magistrate, such as three months.

2702. But that would not take away his ticket of leave, excepting for the time that

Police Serjeant *M. Loome.*

12 June 1856.

that he would be punished?—It would send him back again by order of the Secretary of State; there are great numbers sent back.

2703. Mr. *Ker Seymer.*] Are you quite sure that a summary conviction would not forfeit his ticket of leave?—It would do so; it would send him back again; a great many are sent back through that.

2704. Do you ever bring persons before the magistrates charged with not having any visible means of subsistence, and being the companions of thieves?—No.

2705. You are aware that that is an offence?—I never had any instructions to take a man before a magistrate for that, without some offence.

2706. You are not aware that what I have stated is an offence?—I never heard that it was.

2707. You say that there are 50 ticket-of-leave men in Westminster; are those men that you knew by sight before they were originally convicted?—Yes; at the time of their conviction I knew of them, and previously to that also.

2708. You do not know how many other ticket-of-leave men there may be in Westminster, coming from other parts of the country, with which you are not acquainted?—There may be several.

2709. If there were, you would not have any means of knowing them?—No; I should make some inquiries about a man, if I saw a stranger among this gang of thieves, to know who he was, as far as I could, and where he came from.

2710. It has not occurred to you to ascertain any ticket-of-leave man from a distant part in that way?—No.

2711. Mr. *Deedes.*] Have you instructions to communicate with one another as to the knowledge of these ticket-of-leave men. Supposing, for instance, a brother officer knew a man, and you did not, would he tell you?—If we were both together, on passing him, he would say, "That is So-and-so; he has come home."

2712. But you have no positive instructions to communicate with one another, so that you shall all know, as far as possible, who are ticket-of-leave men?—No, we have not.

2713. Mr. *John Wynne.*] You mentioned, in answer to a previous question, that you considered that it was more difficult for a man to obtain honest employment in Australia than in England?—I misunderstood the question; I intended to say England; if I said Australia I humbly beg pardon.

2714. Mr. *Adderley.*] If it is the case that it is so much easier for a prisoner at the conclusion of his sentence to get work in Australia than in England, how is it that the dread of not being able to get work is greater connected with a sentence of transportation, than with a sentence of imprisonment at home?—The generality of them are anxious to get back as soon as they can, to get home again; for what purpose I do not know; they are generally anxious to get home as quickly as possible; they do not like being sent out of the country.

2715. You talked about returned transports, with tickets of leave, describing the horrors of their situation, from being unable to get work, saying that they offered to work, but could not get it; and you mentioned that you gave them shillings sometimes?—I have done so.

2716. They said they could do nothing?—That they could get no work to do; and would I assist them in getting work.

2717. If then the great grievance amongst these men in London is the inability to get work, and if they know that transported men get work easily in Australia, how is it that they dread transportation so much?—As I said before, it is the being sent out of the country, and the horrors that they have previous to being sent out, and also after they arrive there; and when they are once relieved from prison here, if they cannot get work, they turn to their old habits again, and live in luxury.

2718. *Chairman.*] You have spoken of a ticket of leave, and you say you think you shall be able to produce the very ticket of leave you were speaking of at the next meeting of the Committee?—I think I shall.

2719. Do you remember whether it contained these conditions in writing: "The power of revoking or altering the licence of a convict will most certainly be exercised in case of his misconduct. If, therefore, he wishes to retain the privilege, which by his good behaviour under penal discipline he has obtained, he must prove by his subsequent conduct that he is really worthy of Her Majesty's clemency. To produce a forfeiture of the licence it is by no means necessary that the holder should

hould be convicted of any new offence. If he associates with notoriously bad characters; leads an idle and dissolute life, or has no visible means of obtaining an honest livelihood, &c., it will be assumed that he is about to relapse into crime, and he will be at once apprehended, and re-committed to prison under his original sentence" ?—I think it is something of that sort; I think not quite so much.

2720. Have you any instructions under which, if you knew a person committing any of these acts which would operate as a forfeiture of his licence, you would have to make a report of him?—We should make a report to the Commissioners.

2721. That is to say, if he was committing any one of these acts to operate as a forfeiture of his licence?—Yes.

2722. It would be your duty to report him, if you found him doing any one of these things?—It would.

2723. In order that the licence might be revoked?—It would go to the Secretary of State, I believe, and he would give the order.

2724. Have you acted upon those instructions in every case of these ticket-of-leave men whom you speak of; you have mentioned several of them as conducting themselves in a very suspicious manner?—A great many of them have been convicted over again; they have been taken into custody for offences, and sent to penal servitude.

2725. Those would be clear cases; but in cases not of that description, but where the persons were associating with notoriously bad characters, leading an idle or dissolute life, or having no visible means of obtaining an honest livelihood, would you think it your duty to give information that the men were so conducting themselves?—I should report circumstances of that kind.

2726. Would you consider it a part of your duty to do it, if such facts came to your knowledge?—Some of them, not all. If the case was very bad, and the man was going on very badly indeed, as in the case I have stated of a man having little boys with him, we should report it. Where a man was living with his friends, and not doing any work, or anything of that sort, we should not make a report of it.

2727. If he was doing any of these things which by the notice are to operate as a forfeiture of his licence, would you think it your duty to communicate that to the Commissioners?—Yes.

2728. And do you think that that is understood by the police to be a part of their duty?—I think it is; it is understood by me to be so.

2729. Mr. *Beckett Denison.*] Do you know of any instances of tickets of leave being withdrawn in consequence of information which you have given?—No, I think not.

2730. *Chairman.*] You expressed an opinion that the Act of 1853 had not worked well upon the whole, and you gave one reason?—Yes.

2731. Will you state all your reasons for coming to that conclusion; we should wish to know what your reasons are?—I have no other reason than that which I have stated.

2732. Just repeat it?—My reason is, that these men come home and commit offences; a great many of them are sent back again; they return to their old habits and associates: very few of them get any employment when they come back, and some of them, the second or third day after coming back, return to their old companions again.

2733. Ticket-of-leave men?—Yes.

2734. Would that not also be the case with persons whose sentences had expired, and who had not come back under tickets-of-leave?—Yes, some of them.

2735. Are you sure that when you talk of 50 ticket of leave men, there may not be in that number some persons who are not ticket-of-leave men, but whose sentences have expired?—I believe there are.

2736. What proportion of them are of that class you do not know?—No.

2737. All you know is, that there are 50 men who have been formerly convicted of offences and sentenced to punishment?—About 50 men.

2738. That is what you meant when you spoke of 50 men whom you called ticket-of-leave men?—There have been pretty nearly as many as 50 men who have returned upon this ticket-of-leave system, without other men who have committed offences and been imprisoned.

2739. The Committee wish to understand this distinctly; you spoke of 50 men; are

Police Serjeant *M. Loome.*

12 June 1856.

are all those 50 men persons who have come back with tickets of leave, or do they comprehend among them persons whose sentences have expired?—Some of them.

2740. How many of them are persons whose sentences have expired you do not know?—I do not know.

2741. Mr. *Adderley.*] How would you call a man whose sentence had expired a ticket-of-leave man?—There are very few of them whose sentences have expired to have a free pardon.

2742. Have they any document to show?—They have.

2743. What sort of document have they to show?—I have very seldom read it through; it says "Free pardon" on the top of the document.

2744. Have they any of them certificates of good conduct?—Some of them have a second certificate of good conduct.

2745. Do they readily show you their tickets of leave when they are asked?—I have asked them for them, not having been satisfied whether they were ticket-of-leave men or transports, and the next time they have shown them to me.

2746. Do they generally carry them about their persons?—No.

2747. Do they keep them at home?—Yes, and with their friends; and some of them have burnt them.

2748. Do they generally consider that the ticket of leave is rather a favour?—I think not; they generally keep it at home, I think for the purpose of its not being known that they are ticket-of-leave men.

2749. Why should they show it?—That the officer may be satisfied, not being satisfied without it, whether they are ticket-of-leave men or transports.

2750. Mr. *Beckett Denison.*] Do they show their tickets of leave for fear of being taken up as returned transports?—They only show them when asked.

2751. Mr. *Adderley.*] The ticket of leave is to a certain extent, a protection to the men?—Yes.

2752. What do they consider it a protection against?—That an officer may not take them before a magistrate.

2753. Why should they burn it, if it is a protection?—When they know that they have shown it, they are satisfied; they would refer to me, or any other officer, to say that we had seen it if anything occurred.

2754. *Chairman.*] Is the reason which you have now stated, the reason why you said that you thought the Act of 1853 had not worked beneficially to the public?—I think so in general, because so many of them commit offences after they come home.

2755. That was the only reason which you had?—That was the only reason.

2756. Mr. *Deedes.*] Are there more of these men now who have returned, either with tickets of leave, or with free pardons, or whose sentences have expired, who return to crime, than did so when you entered the force 14 years ago?—When I first joined 12 or 14 years ago, I had not the knowledge of many of them which I have now, and it was not for me to say. Within these last eight or 10 years, I have had great experience among them, and I have seen a great many of them sent away, and that is why I know them after they come home.

2757. This system has only been in operation two years?—Those whom I speak of are men who have been convicted and transported, and who have come home since this new Act has been out. I do not think we formerly had so many men who had returned as within these last two years.

Mr. *William Thwaites,* called in; and Examined.

Mr. *W. Thwaites.*

2758. *Chairman.*] WHAT is your occupation?—A Teacher of Convicts; Schoolmaster in one of the Hulks.

2759. How long have you performed duties of that kind?—Upwards of eight years.

2760. Where have you done so?—First at Woolwich, on board the "Justitia;" afterwards at the "Defence," at Gosport, in Portsmouth harbour; then at Shorncliffe, then at Portsmouth prison, and now on board the "Stirling Castle," at Gosport.

2761. I believe you have expressed a wish to give evidence before this Committee for the purpose of giving information and making suggestions?—Yes.

2762. With regard particularly to the ticket-of-leave system?—Yes.

2763. Are you of opinion that that system has upon the whole acted well?—I am

I am of opinion that it has acted far better than any other that I have had an opportunity of judging of.

2764. Should you say that the results upon the whole have been favourable or unfavourable?—Very favourable, as far as they have come under my observation.

2765. What opportunities have you had of seeing those results?—I have had opportunities of testing the position of the prisoners after their liberation by being engaged in writing to parties who have promised them work, and also parties who have tested beforehand the respectability of the persons offering work.

2766. You have written letters in the first instance to inquire whether employment could be furnished to these people?—Yes.

2767. Then they have gone out; and have you made it your business to institute any inquiry as to how they have conducted themselves subsequently?—It has been a portion of my duty, with the other master, to do so.

2768. Are you in possession of the results of the other master's experience; is it a joint duty which you and he perform?—It was a joint duty; he has since performed it; but I am in possession of all the results of his experience as well as my own.

2769. Can you furnish the Committee with any facts?—I can inform the Committee that 314 prisoners were liberated on tickets of leave from the "Stirling Castle" up to the 31st of December last.

2770. From the time of the passing of the Act?—From the time of the passing of the Act.

2771. Are you now going to speak of those persons from the "Stirling Castle"?—I am.

2772. Will you be so good as to proceed?—There is one feature with regard to the "Stirling Castle" prisoners which the Committee should know. They go away from that ship with greater disadvantage than other prisoners, inasmuch as they are invalids. They have not so great a facility for employment as men from hard-working prisons. The obstacles which they have to contend with are greater in getting employment. Out of the 314 who have been liberated from the "Stirling Castle" up to the 31st of December last, we have received back, with their licences revoked, only 12.

2773. Do you know under what circumstances their licences have been revoked?—Some of them for very trivial offences, being seen in drink, perhaps—one or two of them, I remember.

2774. Where; at Portsmouth?—No; at the places where they were located on discharge.

2775. What was the most serious offence with which any one of those persons was charged?—The most serious that I remember was being supposed to have been engaged in burglaries.

2776. Were the majority of the cases trifling offences?—The majority of the 12 were trifling offences.

2777. You have said that 12, to your knowledge, have had their licences revoked?—Yes.

2778. May it not be that others have had their licences revoked whose cases have not come to your knowledge?—They could not, unless they had had fresh trials and fresh sentences. I believe it is the rule to send all back to the places from which they have been liberated unless they are re-tried.

2779. Then, if they have been re-tried, you may not have heard anything of them?—I should have no personal knowledge any further than reading or hearing. I have heard of a few who have had fresh trials.

2780. Mr. Serjeant *O'Brien.*] Besides the 12?—Yes; but a very few.

2781. *Chairman.*] What would be the description of those who would be sure to come back to you?—Thieves by repute, who have spent their lives in thieving principally.

2782. They would not be necessarily persons against whom any new offence had been actually proved?—No; some of them were suspected.

2783. That class you would hear of again?—Yes.

2784. But some who were actually convicted again you would not necessarily hear of?—They would not come before us in our establishment at Gosport.

2785. And probably you would not hear of cases of that kind?—We generally hear; we see the accounts in the public papers, and we have a great many ways of knowing; it is very soon known when a prisoner is re-taken and re-committed.

2786. But no official communication of any kind would come to you as a matter

Mr. *W. Thwaites.*

12 June 1856.

of course?—No; it might come to the governor; I think in a few instances letters have been sent to the governor.

2787. But it would not be under your own personal knowledge?—Not under my own personal knowledge.

2788. You have mentioned the number of cases in which you have known licences revoked: have you known any considerable number of cases in which the men have done well?—I have; the first year we did not make so strict an inquiry as we have done since; but taking the year 1854 from December the 31st to the 31st of December 1855, 129 were liberated. We wrote to the parties who promised to give them employment, and the clergymen, and magistrates; out of the 129, we received 74 very satisfactory answers, that these men were doing well; that they were working honestly, and were living respectably.

2789. They were in work of some kind or other?—Yes; that was about three months after they were out of the "Stirling Castle;" three, four, and five months after their liberation.

2790. Have you received any subsequent accounts of them?—Some few of them have written themselves, and the friends of some few have written.

2791. How were they going on?—Those that had reformed were still going on well; I think there were only one or two cases where we heard of these men relapsing; I remember one case, at Edinburgh, where the master wrote to say that the man had left his employment, and that he could not tell where he had gone; that is one out of the 74; I do not remember any other personal instances of the same nature.

2792. Have you reason to believe that any of those 74 of whom you heard that good account, three months after they were released, have since gone wrong?—I have no reason whatever to believe so.

2793. Will you describe to the Committee what the kind of correspondence is which you conduct, with regard to a man who is about to be set at liberty; to whom do you write?—The man names a person, if he can, who he thinks will give him employment; a printed form is sent to that person.

2794. Have you got one of the forms?—I have not; they are sent from Parliament-street to different places. The person is requested to sign his name, promising employment or a home, as the case may be, and that has to be attested by the clergyman of the parish, or a magistrate; then when we get the signatures to the paper, we write to the attesting party, either the clergyman or the magistrate, as the case may be.

2795. Do you require that it shall be either a clergyman or a magistrate?—A minister of religion.

2796. A minister of religion or a magistrate?—Yes; in some cases it has been a Roman-catholic priest.

2797. Then, seeing his signature, you write to him?—Yes, to ask whether the party promising employment is in a position to give it, and whether he is respectable.

2798. I suppose you do nothing until you have received an answer from that person?—In some cases it has been done without an answer being received.

2799. Because you were satisfied in some other way?—It depends upon the authorities of the ship; we are merely the instruments in these cases; the authorities liberate the men. A form is sent up, I believe, from the governor of the ship. In some few instances they have been liberated, I believe, without getting this promise of work.

2800. A further communication, I suppose, is made to the person who gives this promise, and the man is let out?—The man is let out.

2801. You say there are cases where there is no promise of that sort?—Yes.

2802. Persons who have not any friends, or any person undertaking to furnish them with work, but who nevertheless have behaved well, and would come within the ordinary rule of being discharged with a ticket of leave?—Some do not like to expose themselves, as they term it; then I believe it is the practice to inquire into their prospects, if liberated, and some have been liberated then upon their own showing of their prospects, I believe. Those are the persons concerning whom we cannot get information after their liberation.

2803. You have mentioned a certain class of whom you have heard a bad account, and a much larger class of whom you have heard a tolerably good account; what number would be left of whom you have heard no account, either good, bad, or indifferent?—Up to the 31st of December there were 23 from whom

we

we had not received answers, but since that time we have received answers as to five or six of them; they were doing very well; respecting eight we received answers, who were leading improper lives; we received the information from the parties to whom we wrote; five were of a doubtful character; and 19 out of the 129 we could not write to, not knowing where they had gone. I believe that was the number who had been liberated without promises of employment or a home.

2804. When you speak of persons leading improper lives, do you mean persons who, there is reason to believe, have relapsed into practices of dishonesty?—They were not sober men in very many instances; the parties returned that they were not sober.

2805. You do not mean persons who have committed some new offence?—No, that was not stated; I suppose, if they had done so, they would have returned; but they were men who were visiting public-houses, and who were supposed not to be leading moral lives.

2806. With regard to those whom you call doubtful, they were not persons who you knew had committed any new offence?—If they had they would have been returned to us.

2807. Do you feel as strong a confidence as you did in the success of the experiment of the ticket-of-leave system; or is your confidence in it becoming weaker by experience, or stronger?—My confidence is not weaker, but I think that the system has not been tried as it might be; I think that persons who, for instance, have been known to have been thieves all their lives should not be liberated on a ticket of leave.

2808. What suggestions can you favour us with for an improvement in the present system?—I would suggest that those men who have been thieves all their lives should undergo their sentences abroad.

2809. Do you mean in Bermuda or Gibraltar?—That they should be sent out of the country.

2810. Either to Bermuda or to Gibraltar?—Yes, or even further; for I have noticed that those men invariably, I might say almost as a rule, speaking from my experience, have relapsed into crime.

2811. Which men?—Those men who have been thieves by repute, such as the London pickpockets.

2812. Will you describe to what class it is that you would not extend the ticket of leave?—I would not extend it to those persons who are known to the police; who have spent their lives in crime; I would not give a ticket of leave to such a class.

2813. Do you mean, that if a person had been previously convicted of offences, and had come, after conviction again, and had conducted himself well during that last imprisonment, up to a certain period, you would not allow that person to have the benefit of a ticket of leave?—I would not. That is a class who are very much afraid of transportation.

2814. By transportation, do you mean transportation to one of our colonies, or to Gibraltar or Bermuda?—They do not mind Gibraltar or Bermuda so much, because they have an opportunity of getting back to England again, but what they mind is being sent right away from their old haunts and their old companions.

2815. To Western Australia, for example?—Yes.

2816. Will you proceed with any further suggestions which you have to make. Is there anything further which occurs to you?—I think the ticket-of-leave system has been (in fact I have seen it) a great boon to those men who have a desire to regain their characters, and there is a large class of such men among the convicts; men, for instance, from rural districts, I have noticed that the young men from London, and Glasgow, and Edinburgh, and such places, who have been known to the police as being pickpockets, and getting their livelihood by thieving, will behave well in prison, in order to get a licence to get back again; to have another chance, as they call it. Transportation to such a class has always, since I have been among convicts, been a very terrible thing to them.

2817. But with regard to that other class which you have spoken of, you think the ticket-of-leave system a decided advantage, I understand?—I do so.

2818. And that is a large class?—And that is a large class.

2819. Do you think that it might be made more available than it has been even for that other class which you have spoken of, by any improved regulation as to the way in which they should be treated, either on the part of the police or in any other way?—I think the police have been a very great obstacle to many. I have known of instances where the police have interfered with the men who

*Mr. W. Thwaites.*

12 June 1856.

have been working honestly, informing their employers that they were ticket-of-leave men, and they have been the occasion of their being discharged.

2820. You have known such instances?—I have known such instances; their friends have written to the "Stirling Castle" stating that such was the case.

2821. Have you known repeated instances of that?—I have heard of several.

2822. How many should you say?—Five or six I have heard of.

2823. And you think those well-authenticated cases?—I do so.

2824. Do you mean that, by the interference of the policeman, the person who had been released on a ticket of leave lost his work?—Yes.

2825. And was reduced to a state of destitution?—He had to seek work elsewhere.

2826. Do you conceive that any improved regulations among the police, as to what they should do or what they should not do, would have the effect of giving a fairer trial to the ticket-of-leave system?—I think they should have instructions, when they see a man working at a place, that they should not interfere to go to the employer of that man, and inform him what kind of character he was. But it seems quite right that they should know those men who are liberated; and they should, I think, have an eye upon them without interfering with them.

2827. They should keep a look-out upon them?—Yes.

2828. And perhaps communicate to each other among the police, but not interfere with a man's work?—Not interfering with a man's work.

2829. That is what you would recommend?—Yes, I know that the ticket-of-leave system is not looked upon with any favour by that class of persons who wish to get their living by thieving; the remarks which they made at first concerning it, and their remarks up to the present day, are quite opposed to it.

2830. Just explain that a little; what kind of remarks have you heard which show that?—When I first entered the convict service, men were discharged with free pardons; the police had nothing more to do with them until they committed a fresh crime. Now they know that it is not necessary for them to commit a fresh crime, but if they are at any loose practices, or mixing with bad company, or are suspected, they may be returned to the prison from whence they were sent, and as they know that the police knew them before their transportation, and knew their characters, they feel that to go out with a ticket of leave takes away the chance which they had before of committing some kinds of depredations; because they are obliged to be, to use their own term, on the look-out.

2831. What suggestion should you make with regard to that?—I think it is a good thing that thieves should be deterred by the system, and I think that the ticket-of-leave system does deter that class of men; it seems to me better than the old practice of liberating them with a free pardon, when they had undergone, perhaps, half their sentence, the police having no more control over them until they were charged with another crime at the police-office or court.

2832. Do you think it is desirable that a man should feel that he was under a certain degree of control?—I think so.

2833. Have you had an opportunity of seeing the carrying out of the sentences of penal servitude?—Yes.

2834. Are you of opinion that it is desirable, with respect to those sentences, to carry them out to the full extent, or to have some period at which, in case of good behaviour, a man might be released upon a ticket of leave, the same as under transportation?—I think it very undesirable, as far as my own experience goes, that they should be made to perform the whole of their sentences; you give them no stimulus whatever to attempt a reformation, or the semblance of a reformation, while in prison.

2835. You think it important that in the case of penal servitude, as in other cases, there should be that kind of stimulus to good behaviour constantly presented to a man?—I think there should; the present system has a very bad effect indeed upon the men as a body; my experience in the ship in which I am, shows that.

2836. Which system are you now speaking of which has so bad an effect?—The penal system; keeping the men the whole of their time, without holding out to them the hope of getting their sentences remitted at all by good conduct.

2837. You think you perceive a bad effect resulting from it?—I not only perceive it, but I have seen the effects of it.

2838. Just describe what you have seen?—I have seen the effects of it in the ship in which I am at present; it is working fearfully in the minds of those men; and

and fearful crimes have been witnessed in the ship of late; this is one very great cause which is operating in the minds of those men; they see that there is no hope whatever for them until they have completed their sentences; and their common expressions one to another, which are heard by officers, are, that it matters not how they behave, that they will have to serve all their time; they appear to be reckless as a body; I have noticed this in the penal-servitude men in the ship in which I am.

2839. And in a measure owing to the cause which you have pointed out?—That is a great cause, at least in my opinion it is a great cause, and I know it is the opinion of other persons.

2840. Are the Committee to understand that you would recommend a change in the system, if the system is that they are confined in penal servitude to the full end of their sentence?—My opinion is that the ticket-of-leave system would act well with them, as I believe it has done with others.

2841. There is a man, we will say, sentenced to penal servitude for four years; would you recommend that that person should be at the end of three years, or some other period, entitled to a ticket of leave in case of good behaviour?—I would look at his antecedents as well as his good behaviour in prison.

2842. Not to make it solely depend upon good behaviour in prison?—I would not; good behaviour in prison alone is very deceptive.

2843. You see no reason for making a distinction between him and a prisoner sentenced to transportation?—None whatever.

2844. If the one, as a general rule, should have the stimulus of hope held out to him, the other should?—Yes.

2845-6. In that case, in your judgment, would it be necessary or proper to pronounce longer sentences of penal servitude, so as to combine the advantages of a long period of imprisonment with the advantage resulting from this stimulus of hope. I will illustrate my meaning. It is that a prisoner, for instance, instead of being sentenced to four years' penal servitude, and to come out at the end of three under a ticket of leave, should be sentenced to five or six years' penal servitude, and come out at the end of four or five years on a ticket of leave?—I of course should have regard to the man's crime; but I think that the men ought generally to have a stimulus before them, even if their sentences are made longer than at present.

2847. If their sentences were made longer, so as to have somewhat of a more deterring effect, you would still think that there should be a prospect that a man might come out under a ticket of leave as a reward for good behaviour?—I think so.

2848. And that there should be the hope of that before him all the time he is in?—At present penal-servitude men seem to have the idea that their imprisonment is only a punishment; that the authorities only wish to punish them for their crime, and to hold out no reward for their attempting reformation or reforming.

2849. Is there any other point upon which you wish to give us any suggestion or information?—I think it would be very desirable if something could be done to give those men who have really a wish to reform themselves and to lead a good life, the opportunity of employment when liberated from prisons.

2850. Do you mean something in the nature of a Société de Patronage, which we have heard of here?—Something of that kind, I think. I have frequently received letters from prisoners who have been liberated, begging whether I knew any one that I could write to for them to get them employment.

2851. Do you conceive that that would supply a great want?—I think it would. I remember one letter coming both to myself and also to the chaplain; the person absolutely asked to be received back to the "Stirling Castle" to prevent him committing crime again. He said that he was in London and could get no employment; that persons would not take him in hand who had known him before, and that he would prefer coming back to that ship rather than be compelled to commit crime again.

2852. Has anything ever been done within your knowledge, practically, with the view of carrying out that object which you speak of?—I have not known it; not by the Government, that I am aware of. I understood that it was contempleted before this ticket-of-leave system came into operation; but I have never known an instance where a prisoner has been employed by the Government after his liberation.

2853. Does the ticket-of-leave system render it less an object of importance that

Mr. *W. Thwaites.*

26 June 1856.

that a man should have some aid of that kind on going out?—No; I think it renders it more important that there should be something of that kind.

2854. So as to give a ticket-of-leave man a fair chance?—Yes. I received a letter only a few days since from a liberated prisoner at Edinburgh, who had been in very respectable circumstances before his conviction—the cashier of the Scotland Bank, I believe. His friends, when he was liberated, all turned their backs upon him, but he managed, after some months, to get employment as a copying clerk at 10 *s.* per week, but he said he should lose his employment instantly if they knew that he had been a liberated convict; and he found a great difficulty in getting employment at all. In fact, he was almost starving in the winter; he was taken into another convict's friend's house, and they fed him for, I believe, six weeks, and kept him.

2855. And that was the case of a man who made great exertions to find honest employment?—He did so; and he wrote to me to write to persons whom I knew, who were philanthropic, which I did for him, but they had so many claims upon them that they could not do it.

2856. Have you heard from him lately?—I heard from him last week, and he is still in employment.

2857. How long is it since that man was liberated?—He was liberated last autumn, and the whole of the winter he was without employment till about February, I think, when he got employment in Edinburgh.

2858. Mr. *Adderley.*] Have you a good opinion of that man yourself?—A very good opinion of him.

2859. Would you object to take him into your own service?—I would not.

2860. *Chairman.*] Have the chaplains much to do with procuring tickets of leave?—Nothing whatever that I have seen.

2861. I believe you delivered a lecture lately upon this subject in Gosport, of which I have an abstract before me?—At Hastings.

2862. I observe that you expressed this opinion: "The fallacy of the press was, that tickets of leave were obtained by gammoning the parsons"?—That is quite a fallacy.

2863. You touched upon that, did you not?—Yes.

2864. What do you say upon that subject?—I say it has never been the practice; in fact the chaplain has never had anything to do with getting a prisoner a ticket of leave; he merely, as an agent, carries out the directions of the authorities in Parliament-street.

2865. If there is any other point upon which you can give us information or suggestions we shall be very glad to receive them; we are inquiring here into the operation of the new Act, and also as to whether its provisions are capable of any amendment; we shall be glad of any suggestion which you can give us upon the subject?—I do not know whether it is a suggestion which would bear upon the subject, but I cannot help expressing that I think that the ticket-of-leave system would be much better in its operation if there were no prisoners confined in hulks. I think that the hulks tend to demoralize the men, and consequently make them more unfit to return to society than they were before they came into them.

2866. Perhaps some of the worst of these people who have been let out are persons who have come from the hulks?—I know that to be so. I know that a very infamous crime was committed, not many weeks since, by a man who was liberated from our hulk, and we have good reason to know that all the plans were laid at the hulk itself, and that the parties not only planned, but carried out their plans a very few weeks after their liberation.

2867. Have you reason to believe that some of the worst of those cases which have made the greatest impression upon the public mind, in which ticket-of-leave men have been concerned, are cases of persons who have come from the hulks?—I do so.

2868. And you think that a very bad system?—It is a very bad system. In fact, if I might express such an opinion, the hulks are a disgrace to the country.

2869. You are aware, I believe, that measures are in progress for getting rid altogether of the hulk system?—I was not aware of it.

2870. However, you recommend that it should be done?—I do so. I have fearful reasons for recommending such a thing.

2871. Will you state the principal objections which you conceive to exist against the hulks?—It is impossible for the officers employed in those ships, either

either the officers for carrying out discipline, or for giving moral and religious instruction, to have any effect upon the minds of the men while they are associated as they are. Discipline is defied, and moral instruction is thrown away upon a great proportion of these men, for they are so mixed together, that every villanous crime could be concocted by these men, and the officers have not an opportunity of detecting, or knowing what is going on from the way in which they are classed together.

2872. Mr. *Adderley*.] Especially at night?—Especially at night. It has been known to myself and to others, on board the "Stirling Castle," for some time, that fearful things are carried on in that ship; in fact, I have known it ever since I have been at the hulks. I have never heard of such things at Shorncliffe or at Portsmouth prison. Although Shorncliffe was somewhat similar, yet the officers at Shorncliffe were able to get among the men, which they are not able to do at the hulks from their internal arrangements.

2873. *Chairman*.] The ticket-of-leave men, of whom we hear as committing new offences, are composed of persons who come out partly from the hulks, and partly from other establishments?—Yes.

2874. Are you of opinion that many of the worst cases, of those which have made the greatest impression upon the public mind, are the cases of men who have come out from the hulks?—A great proportion of those men liberated from such prisons, as Portsmouth, were men who had been a long time in hulks. For instance, Portsmouth prison was first of all filled up by hulk prisoners, and it has come to my own knowledge that men who have been liberated from the hulks have done very fearful deeds after they have been liberated, and it has come to my knowledge that men have absolutely been known to plan deeds which they would do after they were liberated from the hulks.

2875. Mr. *Ker Seymer*.] At the same time behaving so well as to obtain their discharge?—Yes; these are the men who are cunning enough not to transgress openly the rules laid down for them in the hulk, so as to get their tickets of leave deferred.

2876. *Chairman*.] With regard to all the other establishments, I understand that you entertain a very different opinion?—I do if they are men sent to those prisons and kept there; but there were a large number of men who had been trained, so to speak, in the hulks, who were liberated from those prisons, such as Portland.

2877. Who came to Portland prison afterwards, and then were liberated?—Yes, and Portsmouth prison.

2878. Besides those men who have been in the hulks in the earlier stage, there are among the ticket-of-leave men, I presume, persons who have been liberated directly from the hulks?—Yes, many. With regard to those who relapse into crime from Portsmouth prison, the system of that prison, I think, has not yet had a fair trial; because it was first of all peopled with a great proportion of men who had been living in the hulks for a long time.

2879. Do you think that the results of the Portsmouth prison system are likely to be more favourable hereafter than they have been hitherto, owing to that course?—I do so.

2880. The abolition of the hulk system will be a very great good?—It will be a great boon to the prisoners themselves, and to the country, I believe.

2881. Is there anything else you wish to state?—No.

2882. Mr. *Adderley*.] You seem to think that the most desirable thing is to get a better system of procuring employment for prisoners on their discharge?—I do.

2883. Was not the process of inquiring for employers, which you stated at the opening of your evidence, something in the nature of the provisions which you now recommend?—It was so.

2884. I understood you, at the commencement of your evidence, that you, as schoolmaster, instituted inquiries for employers on the discharge of prisoners?—Yes.

2885. Do you consider that your means were too limited to gain the information which you want?—Sometimes the parties would deceive the persons who attested these notes, and then again they would give them employment for a few weeks, just fulfilling their promise, and they would not be able to get employment afterwards.

2886. What you want is a more efficient mode of carrying out the same inquiry?

Mr. *W. Thwaites.*

12 June 1856.

inquiry?—No; I should like to see some place or places where liberated convicts, who wished to work, and would work, but who could not get it, might be employed.

2887. Are you of opinion that such places could be provided by Government, or would they be better provided by benevolent individuals?—By benevolent individuals, I think.

2888. Will you state your reason for preferring the action of benevolent individuals in such a provision, to that of Government?—Because I think the men themselves would come under better influences than they would by being under Government, in merely formal Government employment.

2889. Do you think that through such an institution they would really get such characters as would encourage employers to take them?—I think they would.

2890. Have you studied that subject much?—I have, since I have been in the service.

2891. Can you at all describe more in detail the nature of the institution which you would recommend?—It should be an institution which would employ men of different avocations; agricultural labour, for instance, and trades. I think that it would be quite possible that an institution of the kind might be instituted, which would be made to pay itself by the exertions of these men, by manufacturing things which these men could manufacture, and at the same time carrying out the benevolent designs of those who founded it.

2892. Would you propose that such places should be near prisons, or at a distance from them?—At a distance.

2893. Should they be in the same places, or should they be in the country?—They should be in the country.

2894. About how many such institutions ought there to be in this kingdom if the plan was thoroughly carried out, as compared with the number of prisons?—Five or six, I think, would be necessary.

2895. Throughout the whole kingdom?—Throughout the whole kingdom.

2896. Do you propose that the discharged prisoners should be employed in such depôts while they were getting employment, and that they should get employment outside as soon as possible?—Yes; and that they should have an opportunity of returning to this institution rather than being forced to steal from want.

2897. Will you state how you institute an inquiry yourself for employers?—The man names any person who he thinks will give him employment or a home.

2898. And you write to him?—We write.

2899. Have you any other mode of seeking out for employers without the information given by prisoners?—No other mode.

2900. You follow out the information given you by the prisoner, and inquire in the locality which he himself points out?—Yes.

2901. Do you conceive that any such institution as you propose would enable a man to get such a character as would open employment anywhere for him?—Yes; and I think it would also test the characters of those persons who professed that they wished to reform.

2902. Where do you think that they would get employment; chiefly in this country, or should you expect that you would have to employ emigration to any great extent?—I think emigration. The feeling of the country seems to me to be against the ticket-of-leave men at present, by the great difficulty which they find in getting employment, especially in Scotland. I find that the Scotch prisoners complain the most bitterly, as far as regards my experience, of the difficulty of obtaining employment in Scotland.

2903. The Scotch seem to have more dread of employing discharged criminals than the English?—Yes.

2904. Would you propose that such institutions should put themselves in communication with persons in the colonies?—Yes; that a man might have an opportunity of emigrating.

2905. In what way do you consign a man to an employer according to the present system?—The paper is merely sent back attested by a magistrate or a clergyman, and when the man is liberated (that, I think, is a loose system). We do not know whether the man returns to that place or not, only by the inquiry which is made during the three months after his liberation. It very often happens that

the

the men do not return to the persons promising them work; they go to some other locality.

2906. In possession of what money or means of travelling does the man go out of prison?—I believe sufficient is given him to sustain him two or three weeks if he is economical, and to pay his journey home.

2907. Then do you take no steps to secure his going to the man who offers employment?—Yes; this step is taken, which is easily evaded; a Post-office order is made payable at the place, but of course he could get that order cashed, without returning to the place, by writing.

2908. Have you ever considered the plan of men being found to give guarantees for the good conduct of discharged prisoners to a certain value?—I am afraid there would not be many found to give that guarantee.

2909. Are you aware of the system which has been established by Mr. Wright, in Manchester?—Yes, I have heard of it.

2910. Have you ever considered the possibility of introducing such a system generally, through the means of such institutions as you have recommended?—I think all such institutions should be carried out on the principle which Mr. Wright has adopted, for I know that many persons have been reformed by his instrumentality, and have become good members of society; but I am afraid that not many would follow Mr. Wright's plan, unless there were such institutions.

2911. You seem to think that the tests of conduct in prison are very fallacious?—Yes, with regard to not being kept back; I can say from experience that those who have been the deepest in crime are wise enough not to break prison laws, particularly those men who do not wish to be sent abroad, and who wish to get back to their old companions.

2912. Do you think that a better stimulus to good conduct might be obtained through the operation of a certain task, instead of the remission of time according to conduct?—I certainly think that there should be more inducements to industry with the men.

2913. Do you think that the completion of work would be a better test of reformation than any signs of good conduct?—I think it would; I think that if a plan could be possibly adopted by which a man might work himself out of prison with good conduct it would be advisable; I do not think that work alone should be the test.

2914. The absence of stimulus to good conduct, which you have observed in the "Stirling Castle," has been since the offers of licences have been stopped?—We are getting more penal servitude men in the ship than we had, and I notice that the bad feeling in the ship is worse now than ever I have known it.

2915. Do you understand that the Government have made up their minds to give no more licences to men under sentence either of penal servitude or of transportation?—The men understand that.

2916. Has any notice to that effect been given to the men on board the "Stirling Castle"?—I cannot say that it has formally, but the men have that idea; where they have got it I cannot say.

2917. You are under the impression that the Government have so made up their minds?—I am.

2918. But you are not aware of any such notice having been given to the men?—I am not aware of it; it has not come to me personally; I have heard some of the men say that they were told by the visiting director that such was the case.

2919. From the general impression which has got abroad that the Government do not intend to make use of the licences which the Act of 1853 enables Her Majesty to give with regard to penal servitude, you think that the conduct of the prisoners has deteriorated?—It certainly has in the "Stirling Castle." We are filling up principally with penal servitude men, and there is certainly now with them no stimulus to do anything more than just to keep from breaking those rules which would get them confined or bring upon themselves worse punishment than they are obliged to bear.

2920. *Chairman.*] You think that you have already seen bad effects from that?—I have seen them.

2921. Mr. *Aaderley.* You seem to think that the advantage of a ticket of leave was, that it enabled men to be committed to prison again merely upon suspicious circumstances?—Yes.

2922. Would not the power to commit men to prison for suspicious circumstances

Mr. *W. Thwaites.*

12 June 1856.

stances generally have the same good effect, not only as regards those under a ticket of leave, but all persons?—I think not; persons of course should not be committed to prison who have not committed a crime, and unless it is proved against them. These men have committed a crime, they deserve punishment, and they return; and if they will not show by an honest life that they are worthy of the indulgence, I think it should be taken from them.

2923. One of the men whose tickets have been revoked, to whom you alluded, you said was supposed to have been engaged in burglary?—Yes.

2924. Do you recollect to what extent there was foundation for that supposition?—There was very good foundation, as appears by circumstances, which were discovered afterwards.

2925. But at the time of the revocation of his licence, was it a mere supposition?—The police, it appears, had good reason to believe it, though they could not bring proof at the time; but proof was afterwards obtained.

2926. Then the licence was revoked on the statement of the police?—It was so.

2927. Mr. *Monckton Milnes.*] From your intercourse with the prisoners themselves, can you tell us how they regard tickets of leave; as to whether ticket-of-leave men are or are not under the vigilance of the police?—Their opinion is, that they are under the vigilance of the police.

2928. Do they look upon that vigilance with ill-will and animosity?—Those men whose lives have been improper or dissolute do; but I have heard others say that they did not mind, because no man need fear if he did not commit himself again.

2929. Do you think that their general feeling is, that the police are likely to prevent their getting employment?—That was the general feeling, and is now; at least the feeling was more general some time back than it is now, that the police were a great hinderance to them.

2930. They would therefore themselves, you think, much prefer a remission of their sentence under a free pardon?—They would like to return to the former system of being liberated when they had served a certain amount of their time; to have a pardon, and then to be re-tried. They would much prefer to be pardoned as they were before the ticket-of-leave system, namely, to be set loose, and for the Government to have no more authority over them, unless re-committed and re-tried.

2931. What do you think is the advantage of the ticket-of-leave system over that?—It shows them that, when they first return from the ship, they must be very careful or they will come back again. They could before so arrange their crimes, that they might perhaps be upon society a number of years before they would be re-transported; now, when perhaps they have some two or three, or some five or even ten years to perform, they know that a trifling theft would bring them back, and that they would have to fulfil the whole of their original sentence.

2932. Do you think it a moral advantage to the men that they should, at least at first after being liberated, believe themselves to be under the vigilance of the police?—I do so.

2933. Do you think that that is likely to produce caution, and a general good effect?—I do so. One of the things which is told them, I believe, and read to them, is, that if they are known to frequent public-houses, and have not the means, or the means seen, of getting a livelihood, they may be returned. Under the old system I have seen men liberated in the morning at Woolwich, and I have met them drunk, rolling in the streets of Woolwich, in the evening. If they were to do that now they would be brought back to the prison, and their licence would be revoked.

2934. You were saying that the worst class regard this vigilance of the police over them with great animosity?—Yes.

2935. Is not that feeling likely to prevent their settling down into a better course of life?—No. I think if a man is determined to do right, he would not mind the police looking at him when he knew that they could not touch him unless he committed himself. But it is not being able to get about in their old haunts without the police having their eye upon them, which they so much hate.

2936. Do you think it would be advantageous that it should be clearly understood that these men were under the vigilance of the police?—I do.

2937. Then you conceive that to be one of the great advantages of the ticket of

of leave?—I do, until their sentence is ended; I think it should be known to them that they have a boon conferred upon them which will be continued to them only so long as they behave themselves.

2938. You attribute very bad results to the hulk system?—I do.

2939. You therefore think that a considerable number of the cases of the failure of the ticket-of-leave system may fairly be attributed to these men during their imprisonment having been subjected to a disadvantageous and inferior course of discipline?—I do. I might say that I have known many instances where men have been sent to prison under transportation for a trivial offence, and after their schooling in the hulks they have become the worst possible members of society.

2940. You would therefore think that there is reason to hope that when some better system is substituted for that of the hulks, there will be fewer cases of revocation of tickets of leave?—I do; I think that when work and a proper moral effort are brought to bear upon the men in such prisons as Portsmouth and Portland, and when the whole of the hulk prisoners are rooted out, much better results will follow. Those prisons, as I said just now, have not had a fair trial yet, on account of their old hulk prisoners.

2941. You attached great importance to the principle of hope being kept up in the minds of the prisoners; and you also said that they seemed to think that the main object in detaining them was punishment?—That is their present idea, in the way that penal servitude is carried out.

2942. Is not it a necessity of their position, and a just thing, that they should think that they are to be punished?—I think they should also be taught that if they reformed it would be a benefit to themselves; I think that if the law is carried out merely to punish them, without holding out an inducement to reformation, it has a bad effect upon the men, instead of a good one; it makes them worse men in a great majority of cases than they were before; they get reckless and hardened to their position.

2943. Have you been many years engaged in this work of the instruction of convicts?—Upwards of eight years.

2944. Have you seen any visible improvement in the moral feeling and conduct of convicts during that time?—I have in isolated instances; in many, I may say, since I have been in the service; but the hulks have had so debasing an influence, that I have seen men who have lived in the highest stations before they came to the hulks as debased as the lowest men in them before they have left them; for instance, I have witnessed a clergyman, and barristers, and officers from the army, who have been debased to a level with the lowest of the London thieves, before they have left the hulks.

2945. You do not think, therefore, that you have had so fair an experience as other instructors may have had?—I think that where there are such prisons as Wakefield and Pentonville, and even Portland, they have a better opportunity of seeing, because they have not such obstacles to contend with as those in hulks. I certainly saw greater effects at Shorncliffe during the 16 months that I was there, and that prison was not so well regulated as those other prisons are, because they could not carry out the same regulations.

2946. Have you any notion what is the feeling of the men themselves with respect to the diminution of transportation; by transportation I mean being sent beyond the seas?—Yes; the class who wish to reform themselves greatly regretted it; transportation was looked to as a great boon by those men who wished to redeem their characters; but I have known others adopt all sorts of schemes to prevent themselves being sent to the Colonies as transports.

2947. But the bettermost men thought that it was their best chance of redeeming themselves?—Yes.

2948. And they very much regretted that they had not that chance?—They did very much regret it.

2949. Mr. Serjeant *O'Brien.*] From your intercourse with the convicts, can you state whether they regard with greater terror being sent out of the country by transportation, or being confined in the country, whether in the ordinary prisons or in the hulks?—The reputed thieves look upon transportation as the worst; those men who are criminals by practice and profession dread transportation more than they do penal servitude.

2950. Is that from your own communication with them?—That is from my own communication with them.

2951. Can you state their reasons?—These men who have made up their minds to

Mr. *W. Thwaites.*

12 June 1856.

to live in crime wish to get back again to their companions, and to their old haunts; but transportation is viewed otherwise by men who have fallen into crime by temptation, such as those who have committed rural crimes, breaking the game laws, for instance, who form a very large proportion. It is a great fallacy to suppose that all convicts are reputed thieves, because we have such a mixture of crimes and criminals, that the great majority are not that class of men who live upon depredations. Those who live upon depredations, and have done so for numbers of years, are not so large a class as the others; they are terrified at transportation; the others I found, as a rule, looked upon it as a boon when they could get to the colonies, at the time when I first entered the service.

2952. Then I understand from you, that what you call the depraved habitual criminals regard transportation with much greater terror than any imprisonment or penal servitude in this country?—Yes; but there is one exception which I should make; after the gold-fields were discovered, then they would like to get there; but before that discovery, I noticed that they would resort to all kinds of schemes to remain at home; they would impose upon the doctor even. I have known some of them to impose upon the doctor the whole of the time that they were prisoners, to be kept in the country, and endure a great deal of hardship to stay in the country.

2953. Mr. *Ker Seymer.*] I understand you to say, that when a prisoner is discharged, he is not sent back to the place of his conviction, but to the place where he is desirous of getting employment?—Yes; it might be to the place of his conviction, or it might not, as the case might happen.

2954. Is that system pursued under any instructions from the Government?—Yes; the Government instruct the prison authorities to get the man to name some person who will employ him, and those authorities write to the person or persons named.

2955. It has been stated in evidence before this Committee, that the general practice in the Government prisons is to discharge them back to the place where they were convicted. In that respect your hulk differs from the practice of the other prisons?—The men will give references for work, of course, to those places where they were known. They could not refer to a person who did not know them to give them employment; but I have noticed that if they could possibly get employment away from the place where they came from they would do so, and in many instances they have done so.

2956. You have spoken of a class of prisoners who, however well they may behave in prison, are likely to relapse into crime. Is that a class so distinctly defined that you could make them the subject of regulation?—Yes.

2957. Would you withhold from that class the principle of hope with reference to prison discipline?—I would not entirely withhold the principle of hope, but I certainly think that the same boon should not be given to them indiscriminately with others, on the principle that we would award a heavier sentence to a man who had committed a heavier crime. If men have been known all their lives to be thieves, I do not think that they should have just the same privilege as a man where it is his first offence; and particularly when persons who are engaged with them have good reason to believe, and almost to know, that they intend to return to their former practices.

2958. Then the principle of hope, as applied to them, would be rather more with reference to the discipline of the prison than with reference to their eventual reformation?—I think it should be studied what plan could be established to hold out hope even to such a class. Still it appears to me that the present system of sending those men back to their old haunts is a bad one. We do not get any information from that class of men; if we do, we find out that it is fictitious.

2959. As far as your experience goes, that class is not a very hopeful class?—Not a very hopeful class.

2960. *Chairman.*] Even with regard to them, I understand you to say, that you would not altogether exclude the stimulus which you have spoken of?—I would not.

2961. But you would take care that it was given in a very cautious manner, and under some peculiar regulations?—Yes, I would not permit them to return to their own places.

*Lunæ*, 16° *die Junii*, 1856.

MEMBERS PRESENT.

| | |
|---|---|
| Mr. Baines. | Mr. Wickham. |
| Sir John Pakington. | Mr. John Wynne. |
| Lord Naas. | Mr. Massey. |
| Mr. Adderley. | Mr. Beckett Denison. |
| Mr. Serjeant O'Brien. | Mr. Monckton Milnes. |

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

The Hon. Sir *Cresswell Cresswell*, one of the Judges of Her Majesty's Court of Common Pleas, called in; and Examined.

Hon. Sir *C. Cresswell.*

16 June 1856.

2962. *Chairman.*] I BELIEVE your Lordship is aware that this Committee has been appointed to inquire into the operation and provisions of the Act of the 16th & 17th Victoria, chapter 99, intituled, "An Act to substitute, in certain cases, other punishment in lieu of transportation?"—Yes.

2963. The Committee are anxious to have the benefit of any information or suggestions which your Lordship can favour them with in reference to this subject. First, permit me to ask whether you entertain a high opinion of the value of transportation as a punishment?—Yes, I do; according to my experience, criminals and their friends receive the sentence of transportation with much more emotion than any sentence of imprisonment, however long it may be.

2964. In your judgment would any system of imprisonment which has hitherto been suggested be of equal efficacy as a deterrent with the punishment of transportation?—I think not.

2965. Then I understand your Lordship to be of opinion that no punishment can very well compensate for the total abolition of the punishment of transportation?—According to my opinion, formed partly from reflection upon the subject, and partly from my experience of the manner in which sentences have been received, I am inclined to think that none can.

2966. Supposing that difficulties have arisen in the colonies which have the effect of closing several of them against the reception of convicts; I presume your Lordship is of opinion that it would be desirable to retain as much of the punishment of transportation as we can?—Certainly.

2967. Does the punishment of transportation appear to you to be more objectionable on the ground of inequality than other punishments; you are aware that that has been at times stated as an objection of peculiar force against the punishment of transportation?—I cannot understand how the punishment of transportation can be more liable to objection on the ground of inequality than any other punishment.

2968. Every punishment must be liable to that objection?—Every punishment must to a certain extent be discretionary. It would be very agreeable to the judges, I think, in general, if it were not so. It would save them a great deal of anxiety upon the subject.

2969. Is there any class of persons who appear, according to your observation, peculiarly to dread the punishment of transportation?—No, I cannot say that I have found any difference in the classes in that respect.

2970. Has your Lordship had the means of forming any decided judgment as to the actual operation of the Act of the 16th & 17th of Victoria, chapter 99, as to whether it has been favourable, or otherwise?—No, I have not.

2971. Have you formed an opinion as to what the probable working of that Act is likely to be?—Yes, I have.

2972. Will you have the goodness to favour the Committee with that opinion?—My opinion is, that that Act must work unfavourably, when combined with the ticket-of-leave system. In the first place, it introduces great uncertainty as to the punishment which will follow the conviction of any crime; and I think that certainty is one of the elements which always ought to exist with reference to punishment. Criminals will always indulge the most favourable view of the future,

Hon. Sir *C. Cresswell.*

16 June 1856.

future, and hope to escape with a light punishment; and as the duration of any sentence passed by a Judge is utterly uncertain, of course they will always anticipate getting off with a short term of imprisonment. Another objection to it is, that it holds out an immediate worldly benefit to be derived from hypocrisy. A man goes into gaol, and, by playing the hypocrite for twelve months, succeeds in getting the good opinion of the chaplain and the gaoler, and has a fair prospect of a ticket of leave, which relieves him from any further suffering under the sentence; and although under a ticket of leave, which enables him to go at large, he is subject to be again imprisoned, and to undergo the rest of the sentence, yet, if he commits a fresh crime, he is no worse off for that; because he has committed a fresh crime, and it being a second conviction, he suffers more severely for it. Therefore, I do not think that the danger of being apprehended and compelled to serve out the rest of his sentence really has any operation in deterring him from committing a fresh crime. Another objection is, that when he goes out he has scarcely any opportunity of getting an honest living, or of shaking off his old associations; and I think that whenever a sentence of imprisonment for a short term is imposed (and, with the aid of the ticket-of-leave system, any sentence that we pass as to penal servitude has no better effect than a sentence to a short term of imprisonment), the prisoner, instead of turning his attention to better things, is constantly looking forward to the period when he will be again at large, enabled to resume his old courses and habits, and return to his old companions. I think, therefore, that both for the criminal and for society, it is a system which is not calculated to work any good.

2973. Do you think it objectionable that there should be the motive of hope of the remission of a certain amount of the punishment present to the man's mind, during the time that he is experiencing that punishment, as a motive to good behaviour?—I think it is, because that is only a motive to good behaviour in gaol; and unless you keep him there long enough to have a reasonable expectation that he will form good habits, and that you will instil into him good ideas, and establish correct principles in him, I do not think you can form any expectation that he will be much the better for having conducted himself well in gaol for a year or two.

2974. Is your Lordship of opinion, that the lengthening of the sentences of penal servitude, which may now be passed, might be combined with the ticket-of-leave system, so as to give the advantages of a sufficiently long time in gaol for habits of that kind to be formed, together with a stimulus to good behaviour?—Unless you alter the system so as to prohibit granting a ticket of leave until the prisoner has served for a long time, and extinguish the hope to escape in a short time, I do not think it would do any good; in fact, you have the power now to pass a sentence of as long a period of imprisonment as human nature can well endure; I believe you may now pass a sentence of 10 years, or it is unlimited; it may be for life. Where you would have passed a sentence of transportation for seven years there is a sentence to penal servitude of not less than four. So also for any term of transportation exceeding seven years and not exceeding 10, there is penal servitude for any term not less than four and not exceeding six. Then you get up to eight and 10 years' penal servitude, and instead of transportation for life penal servitude for life. I do not see that you can carry it much further.

2975. In the case of transportation, I believe, it has long been the practice to grant a ticket of leave after a man has been sent abroad?—I think there is much less objection to that, because a ticket of leave gives him no hope of returning to his own country, and when you have separated him from his old companions, and given him the opportunity of beginning life again, I think it is much more likely that he will endeavour to get an honest living than here, where he would be subject to all the temptations and old associations of this country.

2976. It has been suggested to us that this minimum of four years might be raised so as to make the minimum six or seven years, corresponding with the lowest period of transportation existing, and that you might combine that with the ticket-of-leave system, and keep a man in prison for four or five years, and then let him out upon a ticket of leave. Would you conceive that to be a system less objectionable?—Inasmuch as it would make a very considerable amount of punishment certain, I think it would be better. I think that criminals would begin to look upon it as a sentence certain for four years or five years, or whatever the term was. So far it would be good, and I think certainty is a very great point in all sentences.

2077. I suppose

Hon. Sir *C. Cresswell.*

16 June 1856.

2977. I suppose the Judges have felt a considerable uncertainty as to what was the extent of the actual punishment which they sentenced a man to?—I can only speak for myself, that I feel perfectly uncertain as to the amount which will be inflicted. All I can do in that case is to pass such a sentence as, having heard the case and tried it, I think my duty calls upon me to pass. I must leave others to exercise their discretion afterwards in consequence of what is to happen elsewhere.

2978. Does any observation occur to your Lordship with regard to the graduation of the scale in the 4th section?—No.

2979. In reference to the 9th section, it has been suggested that the terms of the licence which there is power to grant to a man to be at large within the United Kingdom and the Channel Islands might be advantageously enlarged, so as to be extended to the British dominions at home and abroad. I do not know whether you have formed any opinion upon that point?—No; I have not thought of it. I have always thought that the licence to be at large must operate ill, for the reasons which I have assigned.

2980. Does any other suggestion occur to your Lordship's mind with which you can favour us upon the subject?—No. There is one very difficult subject which I have often thought of without being able to come to any satisfactory conclusion upon it, that is, the best mode of providing for people who have been imprisoned, in assisting them to get an honest living afterwards. That is a subject so difficult that it has always baffled my thoughts. If you are to release criminals in England, and discharge them after short terms of imprisonment, I think it is absolutely necessary to take some measures in reference to that subject; it is of first-rate importance; otherwise a man after a short term of imprisonment has all his old temptations around him. He has a difficulty in getting an honest living. He is immediately rejoined by his old associates, who lead him again into crime, as a matter of course.

2981. Sir *John Pakington.*] I infer from the answers which your Lordship has given to the Chairman's questions, that you would desire, if possible, at all events to some extent, to revert to the sentence of transportation?—I should certainly desire it as the best mode for this country of punishing our criminals, and, indeed, of assisting the criminal in reformation. I cannot entertain a doubt in my own mind that it is much more calculated to produce a reform in the criminal than any punishment in this country.

2982. Your Lordship states, that you had observed that the sentence of transportation appeared to excite more emotion, both in the prisoner and the prisoner's friends, than any sentence of imprisonment?—Yes.

2983. May I ask you whether, in making that remark, you had in your mind the sentence of transportation, as compared formerly to the alternative of imprisonment, or the sentence of transportation, as compared now to the sentence of penal servitude, under the new law?—Both, as compared formerly and now; as compared formerly, it was very seldom that a judge sentenced a man to more than two years' imprisonment with hard labour. In fact, some people tell you that they have observed the result of such an imprisonment, and that it so entirely destroys the constitution, that a man is supposed not to live many years' afterwards. The Lord Chief Baron has often told me that he has heard, upon very good authority, that such is the case. I have mentioned it to a good many people, who have turned their attention to the subject, and they tell me that it is entirely without foundation; but undoubtedly I have found a great alteration produced in a prisoner by an imprisonment of a year or two, with hard labour, and I believe it is a very severe sentence.

2984. Has your Lordship felt that that alteration is caused by the depressing effect upon the mind, or by any physical effects upon the body?—I should think it is as much upon the mind as upon the body.

2985. And your Lordship's opinion is, judging from the experience which you have had since August 1853, that none of our present sentences of penal servitude create the same degree of terror, either in prisoners or in prisoners' friends, that the former sentence of transportation did?—I think decidedly not.

2986. Your Lordship is of course aware that there is at this moment considerable difficulty in returning to transportation, on account of the difficulty with regard to finding any place in Her Majesty's dominions for that purpose?—That is a Government question which I have not entered upon at all.

2987. I should like very much to know your Lordship's opinion upon this point: assuming it to be possible to revert to the punishment of transportation, would you desire

Hon. Sir *C. Cresswell.*

16 June 1856.

desire to make transportation the main penal punishment to be carried immediately into effect, or would you desire to retain the transportation as it has been acted upon for the last three years, namely, by sending the prisoner abroad after a period of severe labour and severe punishment in this country?—That must depend upon information which I am not in possession of, namely; I have been told (I do not know whether it is upon good authority or not), that when prisoners went out with a good character after penal servitude, and hard labour, and the gaol discipline of this country, for some time, they were better received and more easily got employment, and had greater encouragement, and in fact were more likely to reform, and more frequently became reformed characters abroad than if they were sent out immediately. I understand that their habits become orderly in gaol, at all events; and that when they have nothing to hope for from any hypocritical pretence, and no expectation of being released and getting back to their old associations and their old habits, the gaol discipline has a beneficial effect upon them, and that they do go out better men, and behave better in the colony.

2988. Do you concur in the opinion that the more severe stages of punishment can be carried out with greater certainty, and with greater safety, and with greater security, as to proper supervision, in this country, than is possible in a distant colony?—That is a Government question to which I have not turned my attention; I have not considered it.

2989. Your Lordship, I presume, would at all events consider that that is a very important element in the question?—Yes. Speaking without much consideration of the subject, I should suppose that you could carry it out much better in this country; you have a more immediate opportunity of enforcing prison discipline.

2990. I apprehend that your Lordship, at all events, sees no objection in the case of its being thought desirable to return, so far as we can, to transportation, to persevering in the system established some few years ago by Lord Grey and Sir George Grey, of dividing the sentence of transportation practically into three parts; namely, the first in separate confinement, the second upon public works, and the third in the colony?—No, I should see no objection to that; how the employing convicts on public works would operate I do not know. I have no means of judging.

2991. Your Lordship is aware that they have long been employed on public works?—To a certain extent; I have seen them myself so employed down at Portsmouth.

2992. And you are aware that the public works carried on in the settlements of Bermuda and Gibraltar, are brought within what is now called penal servitude?—I have a certain knowledge that in some instances the criminals have looked with great horror upon that punishment. I have seen letters from men who had been employed at Gibraltar, saying that they were suffering under worse than Egyptian bondage, which I thought was a proof that it was a very wholesome discipline for them.

2993. I presume your Lordship will be of opinion, that neither the criminal classes nor the friends and connexions of those persons are likely to enter into the nice distinctions of our law, or practically to know the difference between going to Bermuda or Gibraltar, and being transported?—No.

2994. May I infer, from the evidence which your Lordship has given us, that you think that it may be a desirable solution of the existing difficulty to contemplate what would, in effect, be a sort of combination of the system of penal servitude, as it is now called, and transportation?—Yes, provided it can be so arranged as to let a man know beforehand that for a certain crime a certain punishment will pretty surely reach him, and that he will by it be dissociated from his old habits and old connexions.

2995. I should very much like to know your Lordship's opinion whether, in the event of its being thought expedient to adopt a mixed system of that kind; that is to say, carrying on our penal system very much as it is at present, and adding to that rather a more extensive adoption of transportation than we now have, and of course, in making that suggestion, contemplating that it is to be applied to the graver classes of crime, your Lordship thinks that it would be well in such a case to revert to the general sentence of transportation in point of form, leaving it to the Crown either to send abroad, or to retain the convict in this country, rather than altogether to drop the sentence of transportation, and in every case to sentence the criminal to penal servitude. My question, of course, refers to which might,

Hon. Sir C. Cresswell.

16 June 1856.

might, in your judgment, have the most deterring effect upon the criminal class in this country?—I think that the deterring effect of transportation, which generally holds out to them that they are either to be sent to our colonies in the ordinary way, or to be sent, as you say, to some public work at Gibraltar or Bermuda, or elsewhere, is much greater than the deterring effect of penal servitude; penal servitude has got a certain meaning among them now, and they seem to look forward to it as a matter of no importance.

2996. You apprehend from your experience that the sentences of penal servitude conveys to the minds of the prisoners and the public merely a prolonged imprisonment in this country, with the certainty of return to their old friends and their old habits at a definite period?—Yes, and what is far worse than that, the prospect of getting liberated at an indefinite period, because they all look forward to a ticket of leave being obtained after a year or two.

2997. You think that the passing of the sentence of transportation would convey to the public mind the idea of severance from home and the habits of home, which must in itself be beneficial?—I think so.

2998. Your Lordship has expressed rather a strong opinion as to the bad effects of the ticket of leave as combined with imprisonment at home; do you found that opinion mainly on the bad effects of these men being at large, or on the bad effects upon the prisoner himself?—The bad effect upon the prisoner himself; I began by stating that I do not know what the effect of such people being at large has been, but merely what I suppose must be the result of such a system; I have not the means of knowing; indeed I doubt whether there has been a sufficient lapse of time to enable you to form a fair judgment of what the effect would be.

2999. Taking the case, of which your Lordship is well aware, of the minimum period of four years; taking the case of a man sentenced to four years' penal servitude, and assuming that contrary to the present practice, it might become under that law the practice to grant to that man a ticket of leave within certain limits; do you think that the effect upon the mind and conduct of a prisoner so sentenced would be worse if he knew that he might be released, say after a period of three years, rather than his knowing that there was a certainty of four years, he in either event returning to his old habits?—No, I look upon it that the great thing to be provided for is certainty; and if the prisoner was told, You may get your ticket of leave at the end of three years, he would look forward to it as a certain imprisonment of three years. Then I think you get rid of one of the objections to the present system, which is the entire uncertainty as to the period of release.

3000. May I ask your Lordship upon what you found that opinion of the entire uncertainty of the sentence, following out the same illustration in the case of four years' penal servitude?—Because I understand (I may be incorrectly informed) that it is entirely at the discretion of the Home Office to grant a ticket of leave at any period: 9 months, 12 months, or 18 months.

3001. Have you ever heard that that power has been so exercised as really to introduce a practical element of uncertainty in the period of four years?—I have been told so.

3002. Is your Lordship not aware of the fact, that an order has been issued from the Home Office, informing all persons sentenced to penal servitude, that they are to receive no tickets of leave at all, but that their periods are to be fully served out?—No. The ticket of leave under this statute is placed entirely in the power of the Home Secretary. In the only case of a ticket of leave which I have ever seen, I think the man had only been a year in prison.

3003. Your Lordship probably is not aware, that down to this time, as a rule, tickets of leave have been granted only to persons who were under sentence of transportation at the time the Act of 1853 was passed?—No, I am not at all aware of it. I have been rather giving an opinion as to what would be the effect of that statute, assuming it to be acted upon.

3004. I should very much like to know what, in your Lordship's judgment, would be the effect, whether you think the effect would be good or bad, of letting it be understood, in the event of a sentence of four years' penal servitude, that good conduct might enable a prisoner to emancipate himself at the end of three years, but in no case sooner, leaving a margin of twelve months' imprisonment to depend upon the character of his own behaviour?—I think that it would be very much better than leaving it uncertain, because you at least would there have the element of certainty up to three years, and you would separate him from his old

Hon. Sir *C. Cresswell.*

16 June 1856.

companions for a very considerable time; he would be less likely to be thinking continually of what he would do when he got out again, and would rather, perhaps, turn his attention to other matters in which he was instructed in the gaol, and so come out a better man.

3005. Assuming that the rule was, that the shorter sentence should be fixed and unalterable, that the sentence of four years' penal servitude should certainly involve three years' penal servitude, and that the remaining twelvemonth should turn upon the conduct of the man, is not your Lordship of opinion that that would be a wiser and better system than to have the whole four years the inevitable sentence, whatever the conduct of the man might be?—Yes, I think so; because I think that an imprisonment certain for three years is so long a one that a man would hardly think of playing the hypocrite for three years, in order to escape the fourth; and, even if he wished to do it, he would hardly be able to do it.

3006. You have made several answers referring to the fact that prisoners would look forward to their liberty, and that that might affect the severity of the punishment; do you not think that that would bear equally upon the period of imprisonment, whether for three or four years?—What I said upon that subject was intended to apply to short imprisonments; that when a man is only imprisoned for a short time, rather than turn his attention to other things, he is constantly contemplating the termination of his imprisonment, and getting out. I say it judging from what I have seen of human nature in general out of gaol. If you find a man given to the pursuit of any particular vice, and illness or any particular accident compels him to abstain from it for a time, he is always thinking what he will do when he gets well again.

3007. Your Lordship used in one of your answers an expression which, of course, would carry very great weight, as coming from a person of your high authority, and I should very much like to ask you to explain it. You used the expression, that our imprisonments were now as long as human nature could well bear. May I ask you what you then had in your mind?—I was asked whether I would enlarge the power of the Judge as to the periods of penal servitude. I said that I thought the present Act goes about as far as human nature can bear. We have up to 10 years, for instance. I do not know what 10 years' penal servitude would be to another person, but it would be equivalent to a sentence of death upon myself.

3008. Why so?—Because there is something so dreadful in penal servitude for 10 years.

3009. Is your Lordship aware how the system of penal servitude works?—No. I said originally that I had no statistical information to give. There is power to award penal servitude for life.

3010. If a sentence of 10 years' penal servitude is as much as human nature can well bear, what do you say to the sentence of penal servitude for life?—I am not sure that it would come to much more.

3011. Is your Lordship aware that, under the sentence of penal servitude, after the first year or nine months, which is passed in complete separation in a solitary cell, the men work in association; that they are in the open air from morning to night, and that there is nothing in the system, excepting the want of liberty, which is not perfectly consistent with the health of the human constitution?—I do not speak so much of anything inconsistent with health, except the depressing effect of imprisonment.

3012. The want of liberty?—The want of liberty.

3013. Assuming that transportation is to be given up altogether, and that penal servitude is to be the law of the country, and that the law contemplates penal servitude for life in extreme cases, is your Lordship not of opinion that the graduation of this scale is somewhat imperfect, in leaving no power of sentence between 10 years and life?—Practically, I do not think that there would be any difference. If there are more crimes than one you may cumulate the punishment, and give two periods. If a man is convicted on two different indictments you may give him 8 years on each. I have known cases of that sort.

3014. That hardly answers my question, because, of course, the scale enacted by that law contemplates the mode in which you shall deal with single crimes?—Yes.

3015. Are you of opinion that the scale there enacted presents a series of fair equivalents for the corresponding sentences of transportation; for instance, do you think that four years' penal servitude is a full equivalent for seven years' transportation

portation in point of severity of punishment?—Supposing that the four years' penal servitude really subjects the prisoner to what was equivalent to hard labour before, or to anything like it, I think it is, and in fact it is more nearly equivalent than our old system. There were a vast number of instances in which the court had the power of imprisonment for two years, I think, or three years, or of transportation; in many instances it had no power by the old statutes to imprison for more than three years, but it had power to transport.

3016. I should very much like to know your Lordship's opinion as to whether that practical vacuum, if I may so call it, between two years' imprisonment and seven years' transportation, was not a great defect in our system of punishment?—I do think that the Judges in general have so considered it, in talking to them. I know that many of them have considered that they passed quite as hard a sentence in giving two years' imprisonment with hard labour, as seven years' transportation.

3017. Therefore, you are of opinion that four years' penal servitude, even if that penal servitude is carried out in healthy labour, or public works, or agricultural labour as at Dartmoor, is a full equivalent for the longer period involving deportation from this country?—Yes, I think it is a fair equivalent for it.

3018. Mr. *Beckett Denison.*] Are you at all aware whether any tickets of leave have been granted to men who have been convicted since this Act came into force?—Not at all; I know nothing of it.

3019. As I understand it, the chief difficulty on the part of the Judges is the uncertainty of the manner in which the sentence which they pass is carried out?—I beg to state that I am speaking merely for myself.

3020. The difficulty which you have is, in knowing whether the sentence which you pass will be carried into effect?—That is one of the difficulties, and that is a very great one

3021. Would it be an improvement if the sentence were certain of being carried into effect, giving a margin to the prisoner?—Yes; I stated, in answer to Sir John Pakington, that I thought, if you only placed one year of it at the discretion of the State, you would make a great improvement.

3022. Has it happened to you that you have ever tried a man with respect to whom you have ascertained before passing sentence that he had received a ticket of leave?—Yes, once and once only, which was on the Home Circuit. He had been twice convicted before. I think he received a ticket of leave at the expiration of one year's imprisonment, and he had not been out of gaol above a month before he all but murdered a miserable old labourer, who was tottering out to his work in the morning with a bag over his shoulder, with a penny roll for his dinner; and in order to get that he knocked him down with a hedge stake, and very nearly killed him.

3023. Do you know whether that was before this Act came into operation, which came into operation in August 1853?—I think it was in the summer of 1853 that I tried that man.

3024. Mr. *Monckton Milnes.*] Would your Lordship recommend that this possible mitigation in the duration of the time of punishment should be made part of the sentence, or that it should be left entirely to the discretion of the Secretary of State?—I think it would be better to leave that to the discretion of the Secretary of State; he has power at all times to recommend a pardon. I suppose, if at the end of three years he should think it fit to recommend a pardon, whether the Judge said that the prisoner should have a ticket of leave or not, the Secretary of State would not be controlled, nor could the mercy of the Crown be controlled. I should therefore be inclined to leave it entirely to his discretion.

3025. But if you had sentenced the prisoner to four years' imprisonment, and at the same time it was understood that that sentence would be mitigated at the most by one year, would it not introduce an element of uncertainty?—To a certain amount it would be uncertain; but at all events it would be certain to the extent of three years, and I apprehend that practically it would be considered as a sentence for three years, if the man behaved well in gaol, and four years if he did not; what you want is to give him some inducement to good conduct in gaol.

3026. If the sentence was so worded that the punishment in all cases would be three years, and in the case of a man not being well conducted during that interval four years, would not the precision of that be useful?—I do not know that there would be very much effect produced by it; it might be easily tried by the Judges, without at all presuming to fetter the Secretary of State about it; the Judge

Hon. Sir *C. Cresswell.*

16 June 1856.

might pass a sentence of four years, and explain to the prisoner at the time, "If you behave well in gaol you may get rid of a year of this sentence; if not you will stay there the whole time." I think that what is suggested by the question would impose upon the gaol authorities the necessity of making a report in every case, rather of a public character than a private communication to the Secretary of State.

3027. Does it not appear to your Lordship that from the various changes which have taken place with regard to secondary punishment, it is all-important that we should as soon as possible come to certainty and precision in this matter?—I think so; I think that is most essential in all punishments.

3028. Does it not appear to your Lordship that these frequent changes and uncertainties must have produced very dangerous effects upon the minds of the criminal population?—I think they are calculated to do so; whether they have done so or not I am not able to judge. I have not sufficient statistical information upon the subject to say how it has worked; I can only form an opinion *a priori* how it is likely to work.

3029. Therefore the sooner we return to some certainty the better?—I think so.

3030. Sir *John Pakington.*] I think I collect, on the whole, from your Lordship's evidence on this very important matter, that provided certainty can be obtained up to a given and sufficient period, beyond that uncertainty to depend upon the conduct of the prisoner would be a good, rather than the reverse?—I think it would, provided that certainty made him of necessity undergo a considerable term of imprisonment.

3031. Having that arrangement in view, do you think it would be desirable to extend these minimum sentences, as an illustration, either for a longer period than the law now authorises, or, as has been recommended, up to the full period of the former sentence of seven years, in order to leave a larger margin for the discretion of the Secretary of State?—I object to the very large margin, because you hold out to the prisoner a greater inducement to something like hypocrisy in gaol; I have thought that the gain of one year would not be sufficient to enable a man to play the hypocrite for three; if you held out to him the prospect of securing four years' remission of seven, I think it would rather facilitate his endeavours.

3032. But if you succeeded in obtaining constant good conduct for a period of three or possibly four years, would it not be reasonable to hope that his good conduct might, at least, at all events, become something better than hypocrisy?—Certainly; the longer the period for which you succeed, the greater the hope of such a result.

3033. Would there not of necessity be the feeling in the mind of the prisoner that the fact, whether there was hypocrisy or not, would be tested after his liberation by the check which the holding of a ticket of leave would establish?—I have not thought of that sufficiently to give you an answer.

3034. Mr. *Monckton Milnes.*] Would you recommend that, after the prisoner was conditionally liberated, he should be under the strict surveillance of the police?—To a certain extent. I am not very fond of the strict surveillance of the police; he is a suspected character, but I do not think that it would produce any great effect upon him. As I mentioned, before, I think, the Honourable Member came into the room, the liability to be again apprehended and to work out the rest of his sentence is not likely to produce a great effect, because, if he commits a second crime, he is liable to be apprehended and punished severely for it upon a second conviction.

3035. It appears from the somewhat conflicting evidence which we have had, that the amount of the surveillance of the police at present is quite indeterminate; that a liberated prisoner may or may not think that he is under that surveillance; would it not be advisable that more certainty should be introduced into that arrangement?—You cannot very well attain it. The man may be told that he is watched by the police in London; he will go down to Manchester, and remove again to Leeds, and all the great towns where the trade of a criminal is carried on in large associations.

3036. Is not the penalty of being placed under the surveillance of the police imposed in almost all countries as a district penalty?—I do not know exactly what you mean by the surveillance of the police; how it is to be exercised; to what extent it is to be carried; the man would be a free agent; he would go where he liked, he would live where he liked, and employ himself as he liked, I suppose

suppose, notwithstanding any surveillance of the police. Of course a man who has once or twice been convicted knows very well that a vast number of the police know him, and that he is likely to be watched wherever he goes.

Hon. Sir *C. Cresswell.*

16 June 1856.

3037. Would not the effect of the restraint be rather beneficial to the mind of the prisoner?—If he got back amongst his old associates, I think it would very soon wear off. In the large towns, take Liverpool for instance, where I have tried a great many criminals, I have no doubt that half the professional criminals, so to call them, in the town, know very well that the police watch them. It does not deter them from crime, although their haunts are watched.

3038. Mr. *Adderley.*] Your Lordship seems to think that the tests of good conduct in prison by which parts of sentences may be remitted, are to some extent uncertain, and open to the objection of hypocritical conduct on the part of the prisoner?—I think so, certainly.

3039. Has your Lordship considered whether any surer test might be arrived at by certain amounts of work being imposed, the completion of which should be the ground of remission?—Indeed, I think not. I believe that there are many men who would be content to work very hard indeed to get their liberty.

3040. You think that imprisonment during the performance of a certain task, would not be a desirable kind of imprisonment?—I should doubt whether it would do the prisoner good.

3041. Has your Lordship ever considered a mode of imprisonment during which a felon might be bound to earn a sufficient sum to restore the property which he had stolen?—No, I have not. In many cases I do not see how that could possibly be done. Suppose, for instance, a man robs a jeweller's shop of articles to the value of 2,000 *l.* or 3,000 *l.*

3042. The great majority of felonies being of property of very small value, has your Lordship considered the possibility of applying separative punishments to that great majority of cases?—No. I think that in the first place it would not at all apportion the punishment to the offence; the enormity of an offence does not consist entirely of the amount of property that is taken: and how would you deal with a personal wrong.

3043. I only meant to ask your opinion as to the old principle of restoring fourfold the property stolen as a deterrent mode of punishment among the class of thieves?—I do not think that would have very much effect, and would not meet the graver class of crimes; for instance, a fearful highway robbery with injury to the person very little short of taking life.

3044. *Chairman.*] In how many cases, which have come before your Lordship since the passing of this Act, have you had reason to believe that the prisoner convicted before you was a ticket-of-leave man?—I never inquired about it. I remember one particular instance which I have spoken of happening on the Home Circuit; that is the only instance where I have been told that the prisoner was a ticket-of-leave man. They generally put in former convictions, and you hear nothing about the ticket of leave.

3045. Such a fact, if it existed, would not necessarily or ordinarily come under the knowledge of the Judge?—No.

Mr. *Edward Shepherd,* called in; and Examined.

3046. *Chairman.*] I BELIEVE you are Governor of the West Riding House of Correction at Wakefield?—I am.

Mr. *E. Shepherd.*

3047. How long have you filled the office?—Twenty-four years.

3048. You succeeded your father, I believe?—I did; I was six years deputy governor during my father's lifetime; I have been 30 years now in the two principal offices.

3049. We understand that the Government have availed themselves of the Wakefield prison for the purpose of receiving certain persons who are undergoing the probationary system previously to transportation?—Yes, to the number of 412; the daily number in custody.

3050. Has that been about the average number that you have had under that arrangement?—During the earlier years that was the number; latterly the Government have not been able to send so many; the average number in the last two years has been about 370.

3051. For how many years have the Government availed themselves of Wakefield prison for this purpose?—Since 1847.

Mr. *E. Shepherd.*

16 June 1856.

3052. These are convicts, I suppose?—They are transported men or under penal servitude.

3053. Besides those whom you have mentioned, you have a great number of other persons under your charge?—Yes; an average number of 600.

3054. Yours is the great central prison for the West Riding of Yorkshire?—It is.

3055. Have you had opportunities of observing the operation of the Act into which we are now inquiring?—I have.

3056. In your opinion, has that operation been favourable or the reverse?—It has not been favourable, in my opinion.

3057. Will you state the grounds upon which you express that conclusion?—On account of the number of persons mentioned in the return sent from the office of the Secretary of State to the House of Commons in February last. That is one ground. Another ground is on account of the offences of persons who have received tickets of leave that have come under my own observation; also on account of the habits of these persons, and on account of the rapidly progressive increase in the number of persons coming again to prison having tickets of leave.

3058. You have observed an increase in the number?—I have; a very great increase.

3059. Can you state any facts as to the numbers to show what you are now speaking of?—Yes. In the two departments of the prison, the West Riding and the Government part, I find that the number of ticket-of-leave men received in the year 1854 was 12. In the year 1855 it was 38. Up to the date of this return of the 26th of February there were 23 more. And from that time to the 1st of June, 17 more. But in order to show what was the number received, as well as the number of ticket-of-leave men, I have drawn out a table, showing the number of convicts received, and of ticket-of-leave men received, and the proportion in the various periods I have mentioned. In 1854, 456 convicts were received into the prison; 16 of those were ticket-of-leave men, that is, 2 per cent. In 1855, 287 were received, and 25 more ticket-of-leave men, that is, 8 per cent. I am now speaking of persons in the convict department who have been re-transported. From the 1st of January to the 26th of February, in this year, 131 convicts were received, and 18 of those were ticket-of-leave men, that is, at the rate of 13 per cent. From the 26th of February to the 1st of June, the date to which I have made up all my papers, 48 convicts were received, and 14 of those were ticket-of-leave men, that is, at the rate of 30 per cent. The other day, on the 12th of June, 30 more were received. Out of that number nine were ticket-of-leave men; that is also at the rate of 30 per cent.; so that the number has gone on from 2 per cent. to 8, 13, and 30 per cent. The total number of ticket-of-leave men that I have had under my charge is 99.

3060. Since when?—Since the Act commenced; that is since 1854; I had none in 1853; the 99 comprise both departments; the number on the convict side is 76; the number on the West Riding side 23.

3061. Sir *John Pakington.*] What per centage on your total admissions does that show?—In the West Riding part the number is 4 in 1,000 to the admissions; the admissions were, during the same period, 5,506 persons; 23 were ticket-of-leave men, which is 4 in 1,000.

3062. *Chairman.*] How do you know that a man is a ticket-of-leave man?—By tracing the man out from where he was convicted to where he underwent his probationary system, either in separate confinement or on public works, and ascertaining by authority that that man is a ticket-of-leave man; I make a distinction between those persons and old transports.

3063. You take a distinction between a ticket-of-leave man and a man who having been punished has had his sentence run out?—Exactly, or who has been discharged in any way; an old transport.

3064. Do you say that you have satisfied yourself in each of the 99 cases which you have mentioned that there was a ticket of leave?—I believe in every one; I am not sure that there was an exception, but it could be in only one or two cases in the earlier part of the time, and I think I do not know an exception.

3065. Mr. *Monckton Milnes.*] If a man keeps his councel well is it not within his power to prevent you from knowing whether he is a ticket-of-leave man or not?—To a great extent it is.

3066. Do you not suppose that such cases may have occurred?—I do; I am pretty sure that there have been such cases.

3067. May it not follow that several cases may have occurred in which that fact has escaped your notice?—I think it right to say that every governor of a prison of experience knows pretty nearly when men are not ticket-of-leave men, and also when they are, and I cannot say that many whom I have thought to be ticket-of-leave men have escaped. I do not think many have.

3068. *Chairman.*] As I understand you, there have been in your prison at least 99 ticket-of-leave men, and there may have been more?—There may.

3069. You think not many more?—I do not think many more.

3070. But 99 at least?—99 at least.

3071. These persons have not had tickets of leave about them, have they, in many cases?—Very few indeed.

3072. Will you state again to the Committee how it is that you satisfy yourself, with regard to a particular case, that the man is a ticket-of-leave man; what courses do you adopt?—When he or any one comes into prison, in the West Riding department, whom I suspect, the usual course is to write to all the governors of the prisons where we suspect the man may have been confined. With regard to a man who is known to have been confined, for instance, in Bedfordshire, I should write to the governor of the prison there; if I received an intimation from him that the man had been transported, and removed, say to Millbank, or to Pentonville, or any other place of probationary confinement, I should write there; the governor would inform me to what place the man had been removed on public works, and I should then write there; and I have done so in, I believe, most of the cases which I have mentioned to the Committee; or they have been proved on their trials to be ticket-of-leave men. Where that fact has been proved on their trials of course I have not taken those steps.

3073. Do you prove on the trial that the man is a ticket-of-leave man; is not what you prove this, that he has been convicted before?—What is positively proved by law is, that he has been convicted before; but in all cases a knowledge is acquired whether he has been discharged in the ordinary course, as an old transport, or is a ticket-of-leave man.

3074. You know that it would not be legal evidence in any way to prove that a man was a ticket-of-leave man; does not the proof arise in this way, that there is an allegation in the indictment that the person has been convicted before?—Yes.

3075. In order to prove that, I think there is a certain certificate made out on the part of the clerk of the peace, and then there is evidence of identity?—Exactly so.

3076. How would the question arise in the course of that inquiry, whether the man had gone out upon a ticket of leave?—I believe I could not mention an instance in which the Chairman would not have said, "How has this man acquired his liberty?" then, in order to answer that question of the Chairman, I have to satisfy myself that he has acquired his liberty by licence.

3077. The question is, whether you have the means of satisfying yourself; you have a suspicion, no doubt, in a great many cases; but do you conceive that you have such knowledge upon the subject as to warrant you in saying, "This man has come out upon a ticket of leave," and not upon an expired sentence; or in some other way?—Yes, I have. In almost every instance (I might, perhaps, except two or three) I have had the authority of the governor of the prison from which the man received his licence.

3078. You are not mixing up conditional pardons with these tickets of leave; you are speaking merely of tickets of leave?—I am speaking of tickets of leave.

3079. Just look at that document (*a ticket of leave*); is that the document which you are speaking of; a document authorising the party to be at large, with certain conditions endorsed upon it, stating that in case of certain misbehaviour the licence will be forfeited; that is the document that you speak of when you mention a ticket of leave?— It is.

3080. You say that there has been a considerable increase in the numbers; the whole number of ticket-of-leave men let out since the passing of the Act has of course been increasing gradually?—It has.

3081. Have you heard the evidence which has been given here as to the numbers who have been released from time to time?—No; but I know the numbers who have been released from time to time from the Reports of the Directors of Prisons; and in order to ascertain the length of time that the whole number

Mr. *E. Shepherd.*

16 June 1856.

mentioned in the Return, namely 5,152, had been actually out of custody, I calculated the time in each particular case, and I found that the whole number had been on an average one year and a fraction of a month out of custody.

3082. Have you known many cases of the revocation ofl icences?—Yes.

3083. In all the cases of second convictions of course there is such a revocation of the licence, or what is equivalent to it, namely, a second sentence, which goes beyond the licence?—I have known, I think, about eight revoked licences, but where the sentence has been again transportation no revoking of the licence, to my knowledge, has taken place.

3084. Have you been able to form a judgment, from what you have seen of prisoners, as to what effect the ticket-of-leave system has upon the men themselves; in what light they regard it?—I can form an opinion from what I have heard of the men in what light they regard it with respect to the extent of imprisonment or with regard to transportation.

3085. Be so good as to state what information you have upon that subject?—I inquired of all the ticket-of-leave men now in confinement who are again under penal servitude for four years. I put this question to them; "What length of time do you think would be equal to your sentence of penal servitude if you had it to undergo in a prison?" I always inquired respecting the prison from which they were last transported, so that it might not be confined to one particular prison. The answers which were given me were these: 13 of them stated that they should consider two years equal; 3 of them thought two and a half years equal; 2 thought three years equal; and 3 thought three and a half years equal; the average length of time of the number would be two years and rather more than four months. They thought that those periods were equivalent to penal servitude for four years. Those 21 men are now all undergoing penal servitude for four years a second time; and they stated to me that they considered rather better than two years and four months' imprisonment in the prison in which they were last confined, equal to the four years' penal servitude which they then had.

3086. Mr. *Adderley.*] How much of that was solitary confinement?—It would vary with regard to the prisons. I expressly asked the 21, "What do you think the imprisonment equal to your four years would be in the place in which you were last sentenced?" for instance, it might be Wakefield, it might be Leeds, or it might be Coldbath Fields.

3087. *Chairman.*] What I particularly wanted to know from you was, in what light the prisoners regard the new ticket-of-leave system, and the system of penal servitude, as compared with transportation?—I found, on asking the question of 227 persons who are now under penal servitude, that 136 stated to me that they preferred the penal servitude to the transportation. Ninety-one said that they preferred transportation. The per-centages are, that 60 per cent. of that number preferred penal servitude.

3088. I suppose those men so speaking had been in for different periods of penal servitude; one, for instance, condemned to it at the end of 1853, immediately after the coming into effect of the Act; another in 1854; and another in 1855. What was their experience?—I asked the question of two classes of persons, one having no experience, the other having experience, namely, being ticket-of-leave men. The answer of the ticket-of-leave men was this. I gave you the gross of the whole. I will give you now the answer that the ticket-of-leave men gave to me. The number that had experience, namely, those who had been formerly transported, were 20.

3089. Sir *John Pakington.*] What experience had these men who said they preferred penal servitude. Had they penal servitude, or what did they know about it?—They have actually every one of them undergone the same sort of discipline. All the 20 that I am now going to speak to you of, have undergone the discipline of penal servitude at this moment; therefore, they have had experience of it. I am not mentioning old transports; I am mentioning persons who have been under probationary confinement, who have served on public works, and who have received tickets of leave; therefore they have had experience of the exact working of the system. Twenty persons in my custody have received tickets of leave, and I asked their opinion whether they preferred penal servitude for the four years to which they are now sentenced again, to transportation. Sixty-five per cent. of that number told me that they preferred penal servitude to transportation.

3090. Lord *Naas.*] None of those men had ever been to a colony?—No.

3091. Mr. *Adderley.*] Did they state on what ground they preferred the penal servitude?—Yes they did; whenever they did state grounds it was generally that they had families, and wished to remain at home; there were other grounds, but that was the general reason which they gave.

3092. What should you say generally was the distinction between the two classes, those who preferred penal servitude and those who preferred transportation?—I think the men who had families and home associations were the persons who preferred the penal servitude; the persons who were in the habit of going about from place to place, were the men who preferred transportation.

3093. Which are the worst generally as a class of criminals?—The men who travel about from place to place.

3094. *Chairman.*] Do they seem to have a greater horror of transportation or of penal servitude generally?—Of transportation.

3095. In your opinion is transportation a more deterring punishment to the criminals than the system of penal servitude?—It is.

3096. In your opinion is it likely to exercise a better influence both upon them and upon the criminal classes generally?—It is likely to exercise a greater influence.

3097. Are you of opinion then that it is desirable to retain so much of transportation as is now left, and to resume so much of it as you can get?—I think so.

3098. Are you of opinion that any system of imprisonment could be so modified as to produce the same effects as transportation as a deterring punishment?—I think the system of prison discipline might be altered so as to produce something very near it as a deterring effect.

3099. What alteration would you suggest for that purpose?—I should suggest that the first part of a man's sentence should, as now, be passed in separate confinement, which is the most severe part of the sentence; that the next part of a man's sentence should be passed in public works, but in silence; and I think that there should be a third part of a man's sentence in which I should propose considerable liberty; that is, of course, to certain classes of persons. I believe that men may be employed in this country on works belonging to Government, and may be employed with great advantage; for instance, manufacturing clothing of every description, and all articles worn by persons under the pay and control of the State, soldiers, sailors, and others; and I think that a great number of the best men might be chosen from the second stage, that is, the imprisonment on public works, who might be advantageously employed with considerable liberty. I have thought of this subject for a long time, and I feel satisfied that some hundreds, in truth, might be entrusted with considerable liberty; and I feel that it would be something like a preparation for their going into society; the change from public works to going into society has been so great that I cannot help thinking that there ought to be some modified punishment.

3100. Would that be in the case of persons who had behaved well in the early part of their sentence?—Yes, in both parts.

3101. Lord *Naas.*] How could you propose to carry that out?—I will suppose a sentence of four years; other sentences might be arranged.

3102. My question refers to the last stage where you say you would afford them considerable liberty?—I would have an establishment made in the form of a factory, with every improvement of the age, in which persons should work, and under not much restraint; doing away with the excessive security that there is in prisons. I think that persons might be entrusted there with few officers, an inexpensive staff, and that there would not be much danger, if well selected, of escape.

3103. Would you allow them to leave this establishment, under any circumstances, and walk about?—Yes; supposing coals were wanted for an engine, I have no hesitation in saying, that a person might be entrusted to take the cart, and go to the pit, for instance. I have thought of this subject for some considerable time, and I have no hesitation in saying, that a great number of persons might be so entrusted.

3104. There is no such establishment in existence, I believe, under the superintendence of Government?—No. I have taken the idea, I think, from seeing the effects which are produced in prisoners who are sent to the County Refuge in the neighbourhood of Wakefield; they have free liberty of going out and coming in, and yet many of them remained there voluntarily for two years.

Mr. *E. Shepherd.*

16 June 1856.

3105. Mr. *Monckton Milnes.*] Would it not be very difficult to conduct public out-door works with silence?—I think not.

3106. Would it not require a great number of small and vexatious punishments, the effects of which would not be likely to be advantageous?—I want to give them inducements rather than punishments, and I would have inducements in every stage. For instance: supposing it were the first part the separate confinement; if a man conducted himself in an exemplary manner in separate confinement, he should be removed from separate confinement at an earlier period; the times I could mention, if necessary, when I think he might be removed. If he conducted himself well on public works, he should be removed at an earlier period to the third place, which would be less penal than either of the other two establishments. I think that would be inducement sufficient for the prisoners to conduct themselves well on public works.

3107. Have you ever yourself seen the operation of public works?—Yes.

3108. Where?—At Portland.

3109. Did it not strike you that the efficacy of the establishment depended a great deal upon the general cheerfulness with which the work was done, which would hardly be compatible with a strict system of silence?—General cheerfulness is an indication that men are improving; but general cheerfulness is common in separate cells; and it is an indication there, and a very strong one, of the improvement of a man. I do not at all think that it would be incompatible with labouring in silence that men should be cheerful and show contented dispositions.

3110. *Chairman.*] You have said that you think that the present system has not worked well upon the whole?—I think not.

3111. Are you unfavourable to the system of tickets of leave in itself; that is to say, are you unfavourable to a system which has the effect of releasing a person from custody before the time fixed by the sentence, upon condition, that if he should not behave himself well, the law should resume its hold upon him, and that he should forfeit his liberty again?—I am unfavourable to that plan.

3112. Do you think it advantageous or otherwise, to hold out such a prospect as that to a man by way of stimulus to good behaviour?—If the present system is persevered in, of two punishments, namely, separate confinement, and labour on public works, I think it very desirable indeed that some prospect should be held out. I think the advantages are very great of inducing in men habits of order, and regularity, and cleanliness, and willing industry, control of temper, and many things which would be of great advantage, and which ought to be produced willingly if possible, rather than by punishment. Therefore, although I should like a fixed sentence, yet I do think that some modification would be very desirable indeed.

3113. There is a man, we will say, sentenced to penal servitude for four years; you are of opinion that that man ought to have held up to him the stimulus of hope as an inducement to good behaviour during the time he is undergoing his sentence?—Yes.

3114. What would you do in order to afford that stimulus?—I would increase the term of his sentence. My opinion is, that four years' is the minimum sentence which a man ought to undergo.

3115. Then, is this your meaning; that instead of its being four years as a minimum, there should be a minimum say of five years, and that the man should be released in case of good behaviour at the end of four?—Yes; but I would have even that a fixed sentence. I would have the general power of the Secretary of State limited, so that if a man conducted himself in an exemplary manner he should have not more than one-sixth of his sentence remitted; if he conducted himself well, one-twelfth of his sentence remitted; but that he should complete some term which should be considered a fixed term. I will lay before the Committee a table of sentences which I have thought would be equivalent under that arrangement.

3116. Will you read that table?—For the present sentence of four years, I should propose a sentence of five, which, if one-sixth were taken off, would then make four years and two months; if one-twelfth were taken off, four years and seven months. For a sentence of six years, I propose seven years to be substituted, which, reducing the term, would make five years and ten months; and six years and five months. For eight years, I should propose ten, which would be eight years and four months; and nine years and two months. And for ten years, I should propose twelve, in which case, reducing the term would make it ten years and eleven years.

3117. Then,

3117. Then, in case a sentence was passed of a certain number of years of penal servitude, would you let the man out in the event of exemplary behaviour, striking off just one-sixth of the whole?—Exactly.

3118. And would you let him out absolutely without any conditions?—Yes.

3119. You would not attach any conditions?—None, whatever; he should be absolutely allowed to be at large.

3120. Then what you object to is the system of a licence, with the conditions of it?—Yes.

3121. You think that, upon the whole, bad?—I do.

3122. Do you think it bad that the law should have a hold upon the man in case of subsequent misconduct?—I think that it has not answered well with regard to these men.

3123. You say that the numbers have increased?—Yes.

3124. What is your objection to it upon principle?—One feature which I think it has induced, is the very bad habit of persons coming again by another name. I find that it is perfectly surprising to what an extent that has happened.

3125. Will you explain your meaning?—Of the numbers of ticket-of-leave men who have gone through my hands down to the time I mention, namely 90, 50 were convicted again in the same name; 12 had aliases in both convictions, and 28 of these ticket-of-leave men were actually convicted their second time in another name. This is at the rate of 31 per cent. Now, that is itself a bad feature, and it is different from anything in my experience. With regard to the general run of felons the number that change their names is about $12\frac{1}{2}$ per cent. With regard to the old transports the number that change their names is 13 per cent. Now, I think, that the old transports being a class so very near the ticket-of-leave men, the changing the name has something to do with their having these licences about them in some way or other.

3126. But the change of name, as I understand you, is for the purpose of avoiding the increased punishment which would probably be given if it were known that a man had been convicted before. That is the object?—No doubt.

3127. Would not there be the same object whether a man had been released absolutely, or released under a ticket of leave. Would not there in each case be the object of avoiding its being made known that he had been in trouble before?—Where a man could be returned back again to transportation he would have a greater object in changing his name than if he came again for any small offence, and simply suffered for the offence which he committed.

3128. That is the ground upon which you make the suggestion?—Yes.

3129. You think that it has a greater tendency to produce that change of name which you mention than the other system?—I do.

3130. That is one objection which you have to it?—Yes.

3131. Have you any other objection to letting out a man upon a licence, to be forfeited upon the breach of certain conditions?—That is the principal objection which I have to it. I think it is the only one which I can mention with any weight.

3132. Do you feel that objection to be of so much force that you would recommend that there should be no such thing as sending out a man with a condition attached, but that it should be in all cases an absolute remission of a certain part of the term?—I prefer that.

3133. You are very clear, however, that there ought to be the stimulus of hope present to the man's mind throughout, as an inducement to good behaviour?—Yes, if the same system be pursued, unless you have, what I consider, the third and the modified plan; then I would have no remission whatever.

3134. Are we to understand, that upon the whole you prefer a system of having no remission, either conditional or absolute?—Yes, if you have the third or penal reformatory system, or whatever term it may be called by; if that were added to it I should prefer no remission whatever.

3135. Do you mean, that if there were some new system of prison discipline which would have the effect of reforming, in that case you would have no remission?—Yes.

3136. Taking our systems of imprisonment as they exist, and employment on public works, are you of opinion that there ought to be no remission, or that there ought to be a certain degree of remission, and that that ought to be present to a

Mr. *E. Shepherd.*

16 June 1856.

man's mind as a stimulus to good behaviour during the time he is in prison?—I am of opinion that there ought to be a stimulus, which should be present to a man's mind, and known to him, as at present existing.

3137. Is there any difference, in your opinion, as to the application of that system whether a man is sentenced to transportation or to penal servitude; should there be the same motive held out to him in the one case as in the other?—Am I to understand you to mean transportation, including banishment abroad?

3138. It has been stated here by witnesses, that in cases of penal servitude a ticket of leave is not granted except under special circumstances, that is to say, that a man serves out the whole time for which he has been sentenced; whereas in cases of transportation a certain portion is remitted, the man receiving a ticket of leave; is there any more reason, in your judgment, why a ticket of leave should be granted in one case than in the other?—As the discipline which they undergo in both cases is exactly the same, the transportation merely being, generally speaking, an elongated time, I consider that no difference whatever ought to be made.

3139. Have you any other observation to make with regard to the working of the Act?—I have. In the first place I would draw attention to this return to the House of Commons, dated 26th February, from the Home Office. It states the number of convicts who have received orders of licence to be 5,152. The number of convicts who, after receiving such orders of licence, have been convicted of or charged with subsequent offences, 447. I noticed in a discussion on this subject in the House of Commons on the 3d of April, that Sir George Grey stated that those 447 comprised all whom he knew to have been committed for trial. Now, as I stated before, the length of time that these men have been out being only a little more than a year, 447 is a great average of persons returning again, even taking the Return as being correct, $8\frac{3}{4}$ per cent. would be a large average for persons to return who had undergone so long a term of imprisonment. In order to judge of this I find that the Digest, published by the Inspectors of Prisons for the last year, for which it is presented, states that the re-committals are 25 per cent. This number includes those who have been committed twice or three times, or four, or more. The number that have been once returned only he states at $11\frac{1}{2}$ per cent. It, therefore, appears by that Return that throughout England the numbers only return at the rate of $11\frac{1}{2}$ per cent. It perhaps would be hardly fair to compare such persons as those with very bad men like these convicts; therefore I took out as nearly as I could a class which would be most like them, namely, the convicted felons, and I found that of the convicted felons who were sentenced to six months in Wakefield, 12 per cent. returned within a year and a quarter; I took rather a longer term than applies to the numbers mentioned there; a year was the time; I took a year and a quarter. Of the men sent for a year 9 per cent. returned of the men sent for two years, namely, 64, two persons only for felony within a year and a quarter after their discharge; that is at the rate of 3 per cent. Now, I think that the length of time which these men had been in confinement ought even to have reduced the proportion of re-committals below the actual amount stated in this Return, namely, $8\frac{3}{4}$ per cent. I think that is a great amount for men to return within one year for felony; it contrasts unfavourably with the next statement in the same Return, which is of the number of convicts whose orders of licence have been revoked. Sir George Grey, in explanation of that, stated that the 179 mentioned there were persons convicted of assaults, petty larcenies, and minor offences; 179 persons returned for the small offences, against 447 for the larger ones. That is a greater amount of recommitals for large offences than of any other class of persons which I know. The class of persons who are nearest to them would be the old transports, and they returned to prison at the rate of 42 per cent. in regard to higher offences; 42 per cent. of the persons who did return, returned for felony. The Returns mentioned in this statement are at the rate of 71 per cent. who returned for the higher crimes. Even taking this Return alone, I think that it presents an unfavourable appearance; this is one of my reasons; another reason which I have is the nature of the offences for which these licence-holders return to prison. In looking over an account of the numbers that returned for various offences, I find, taking one particular class, that in Redgrave's Tables, there were 3 per cent. tried as housebreakers, of all the persons who were tried in England, and there

there were 8½ per cent. housebreakers transported. That is very near what I gave before as the general average, for I find the average of the persons whom I had in custody, who had not been to my knowledge transported, was 9 per cent. housebreakers; of the average of 263 persons, 24 were housebreakers; that is 9 per cent. Of 180 old transports who have gone through my hands, 20, or 11 per cent. returned for housebreaking. Now the fact is very curious with regard to these licence-men; of 80 persons who were convicted again and transported, 22½ of these very men were housebreakers; so that it is in reality an enormous increase of one particular class of offences of the very worst kind. Joined with that, it appears that they are associated together more than other classes in committing their offences. I am now referring particularly to housebreakers.

3140. How does that appear?—There are 263 persons now in Wakefield who have been transported for, I believe, the first time; 55 of those persons were transported for housebreaking and burglary; and out of the number, 30 had one or more companions; they were associated together; that would be 54 per cent. With regard to the ticket-of-leave men, out of 48 who are in my custody, 16 are for housebreaking and burglary; and 13 out of the 16 were tried with companions; that is at the rate of 81 per cent; it is a very great increase above the general average of persons who are associated together, showing that these men, by their knowing each other, and being discharged together, become associated together in crime.

3141. Mr. *Beckett Denison.*] Would not housebreaking be a sort of trade, if one may use the term, which would require association almost more than any other?—But I have given you the associated housebreakers of other classes, and they do not come up to the asssociated housebreakers among ticket-of-leave men.

3142. *Chairman.*] Have you any other reason to state for thinking ill of the ticket-of-leave system?—No.

3143. You are aware that great difficulties have arisen as to carrying on the system of transportation, and that in many places the outlets which formerly existed in our colonies have been completely cut off, and that there are no means of transporting convicts to those places. The question is then, of course, to make the best we can of the system which is left to us. What could you suggest for the improvement of the present system?—I have made a suggestion to the Committee with that view, that I consider that three gradations of punishment would be the nearest possible substitute that I can suggest to the Committee.

3144. Have we your full views upon that subject, or have you anything further to suggest besides that?—I think I have not.

3145. Have you any other suggestion of a practical nature which you think would be useful to us with reference to this inquiry?—I think the mode in which ticket-of-leave men are at present, by the Act of Parliament, again sent back to punishment, is objectionable.

3146. What provision are you now alluding to?—I am alluding to the 11th section: "That if it shall please Her Majesty to revoke any such licence as aforesaid, it shall be lawful for one of Her Majesty's principal Secretaries of State, by warrant under his hand and seal, to signify to any one of the police magistrates of the metropolis that such licence has been revoked, and to require such magistrate to issue his warrant under his hand and seal for the apprehension of the convict to whom such licence was granted."

3147. What remark do you make upon that?—These men are found out, generally speaking, in the locality in which they were previously convicted. The evidence which there is, is all then present to the committing magistrate, or easily obtained. I should suggest that, instead of the Secretary of State sending to a police magistrate in London, and his sending down to all the prisons in England and Wales a Bow-street officer to bring those men up to London at considerable expense, the whole of that might be saved if the magistrates had jurisdiction to deal with these men, either by order of the Secretary of State or otherwise, where all the proofs are, instead of all the proofs having to be brought to London at considerable expense. I should also recommend that in every instance where a man's licence was revoked, he should be sent again to separate confinement, instead of being sent to public works, for the second part of his punishment.

3148. Is there any other point upon which you wish to make any observation?

Mr. *E. Shepherd.*

16 June 1856.

—I think that it would be very desirable to restrain the communication of men under penal servitude with their friends.

3149. Friends outside the prison?—Friends outside. I find, from the nature of the offences which these men commit, that they still keep their old associates. Now it is very different with the transports. Perhaps the length of time which they were absent, which averaged 10 years from their first conviction to the second, may account for what I state. The ticket-of-leave men's time is on the average five years from the date of their conviction to the date of their return again to prison. If the communication with their friends was restrained, I think it would tend to break off many of their associations.

3150. What practical method would you suggest to be taken?—I would suggest that they should have no communication whatever; that they should not be allowed to correspond with their friends at all during the time.

3151. Nor to see anyone?—Nor to see anyone.

3152. That they should not communicate either personally or by letter?—Yes; I would have them as much isolated as possible.

3153. Have you any further suggestion to make?—I think not.

3154. Mr. *Monckton Milnes.*] You have stated that you would prefer that the prisoners under these sentences should remain quite isolated; do you not think it advantageous, in some degree, to keep up the action of family affection?—I think it would be the lesser evil to deprive a man of all connection with his friends; although I admit that it might be an evil to deprive him of communication with relatives it would be the lesser evil, I think, to deprive him of it altogether.

3155. During the long period for which you have been engaged in this profession, has there not been a considerable change in public opinion as to the principle upon which criminals ought to be treated?—Yes.

3156. That change has been rather in the direction of establishing the reformatory in place of the purely corrective principle, has it not?—It has.

3157. Do you think that the effect of that change has been to diminish the terror of the law among the criminal population of this country?—The terror of imprisonment is not so great as it was either amongst the criminal population or amongst the out-door people. Persons now associate with men who have been in prison much more than they used to do a few years ago. There is not the same feeling with regard to a man when he goes out of prison that there was 14, or 15, or 20 years ago; nothing like it.

3158. Mr. *Adderley.*] The feeling of degradation?—Yes. There is not the same feeling as to association with him; I do not mean in the prison.

3159. Lord *Naas.*] There is not the same dislike to associate with such person?—No.

3160. Mr. *Monckton Milnes.*] Do you attribute that circumstance to the belief that the man may have been reformed during the period of his remaining in prison?—I attribute it to the less criminal character of the man when he goes out of prison now to what he had when he went out of prison where there was unrestrained communication.

3161. Do you think, therefore, that this milder judgment towards the discharged prisoner is a just result of the prisoner himself being a less criminal person?—Yes.

3162. Has not the increased usage of solitary confinement acted in increasing the terror of punishment?—Punishments are dreaded when they are new. When the silent system was first introduced, there was a very great dread of it indeed amongst the criminal population; there was also a great dread of separate confinement amongst the criminal population when it was first introduced. But those terrors wore away. I do not believe that there is any greater dread of solitary confinement now than there was of imprisonment in former days; it becomes a habit: it becomes known and generally felt by the prisoners that they must be under that system.

3163. Would you desire by any means to increase the present terror of imprisonment, and to bring back the terror of imprisonment to what it was in former times?—No.

3164. You do not think that it would be desirable to do so compatibly with the improved system of prison discipline?—I do not.

3165. I believe all corporal punishment is disused at present in your prison?—Corporal punishment for offences committed in prison is so rare, that I have only known two instances in 15 years. Corporal punishment with regard to offences

offences committed out of doors is nearly out of practice in the West Riding of Yorkshire.

3166. I referred to corporal punishment as a portion of prison discipline; you would not wish it to be more frequently acted on?—No, I would not.

3167. Do you regard its effect as injurious to the prisoner?—I do; there are but few prisoners who are so lost, that corporal punishment will do any good to them; there are exceptions, but the exceptions are very rare. Corporal punishment may be used, but it should be used very sparingly indeed.

3168. Do yon find it possible to keep your prison in effective discipline with a very rare use of corporal punishment?—I not only have had no occasion to use corporal punishment, but I have not had occasion to ask the magistrates, except in two or three instances in 10 or 15 years, to exercise their power of inflicting extra punishment beyond the three days' punishment which it was in my power to give.

3169. When you state that you would prefer a system of reformatory treatment, subsequent to the ordinary prison discipline, to the present system of remission, do you think it would be possible to establish it on a sufficiently large scale to embrace all the prison population of this country?—I do not think it would be possible.

3170. Has it not been very difficult even to extend that system to juvenile offenders?—Very, indeed.

3171. Therefore, at present, you believe that we must content ourselves with the system of remission?—I think so; I should like to see for the long sentences, for the transport department, something like a Penal Reformatory established; I have no doubt of its success.

3172. Did you ever hear of the Government experiments in Ireland, under the care of Captain Crofton?—I visited the prisons in Ireland, but I saw no experiment. I do not know anything about it.

3173. Mr. *Adderley*.] In talking of the great dread of transportation, has that dread been much the same during the whole course of your experience?—It has varied considerably; it has not been the same; I think it is greater now than ever it was. I think the intermediate step of penal servitude has made transportation a punishment more dreaded than ever I have known it.

3174. That is to say, in comparison with penal servitude, it has become more terrible than ever it was before?—Yes, having penal servitude as an intermediate, transportation has produced a greater effect than ever I have known it produce before.

3175. What is the length of your experience as to the dread of transportation?—Thirty years.

3176. During that period transportation has meant some five or six wholly different things?—It has; I have known it when it was not dreaded at all by a certain class of persons; it was always dreaded by the class of persons whom I have mentioned, who had moderately good homes, and good residences, and affectionate friends; it was dreaded by them, but by the generality of criminals, at one time, it was not dreaded at all.

3177. About what was the period to which you allude when transportation was not dreaded at all; under which phase of transportation was it?—It was least dreaded when persons were sent direct away to the colonies.

3178. About what period do you speak of?—It would be before the Government experiment of having the punishment undergone in England.

3179. You mean before the changes introduced by Lord Grey and Sir George Grey?—I believe Sir George Grey was the Secretary of State at that time.

3180. You are decidedly of opinion that since the Act of 1853 transportation has been more dreaded than ever?—I am.

3181. When you are talking of transportation, do you draw any distinction between transportation to Gibraltar and Bermuda, and transportation to Australia?—Yes, I do; I consider the sentence to Bermuda something like the penal servitude. I class it as a penal servitude.

3182. Which kind of transportation do you allude to when you talk of the dread of transportation; that to Bermuda, or that to Australia?—That to Australia; I did not in my answer consider the other transportation.

3183. The only difference between the plan which you propose to substitute for transportation and penal servitude is that third stage of treatment in which men should be worked on Government works, but almost at liberty?—My statement was, that I would recommend a factory.

Mr. *E. Shepherd.*

16 June 1856.

3184. Where the men would be almost at liberty?—Yes.

3185. That third stage is the only novelty which you propose which makes the plan that you propose to substitute for transportation different from the plan of penal servitude, is it not?—No it is not; I stated that in the second stage I would have them work in silence.

3186. In that third stage which you propose, is it essential to your view that the factory should be for Government work?—It is.

3187. What should you say, supposing the third stage which you propose were on works conducted by private individuals, such as have been conducted by societies of patronage?—Private individuals would look to emolument alone. I should not wish emolument to be the only point looked at, although my opinion is that such places so conducted would be self-supporting; but the Government would allow time for recreation, time for improvement, and many advantages perhaps which private individuals would overlook.

3188. I conclude that the object which you have in view in this third stage of treatment is to enable the prisoner on the conclusion of his sentence to get into honest employment again?—Yes, it is in reality to fit him for going out into society, by giving him certain indulgences, liberty, and otherwise, so as to fit him for going out into society, instead of sending him out with a great deal of money in his pocket and allowing him just to spend it as he thinks proper.

3189. Supposing such institutions were in the hands of private individuals, not for the purpose of making profit, but simply benevolent associations of private individuals, from motives of benevolence, to enable discharged prisoners to get into honest employment again, should you consider that that would be preferable to this stage being conducted by Government?—I would rather that the principle was uniform, and conducted under Government management.

3190. Then you consider this third stage of treatment distinctly a part of the penal treatment?—I do. I should consider it a penal treatment, but then taking with it something of the character of a reformatory.

3191. Do you consider that, at the conclusion of penal treatment, there is any stage necessary to bridge over the interval between punishment and getting honest employment again?—My opinion is, that when men went out after giving a security (for it is a sort of security) that they had had opportunities of escaping which this mode would give them, and that they had conducted themselves well for a considerable period; that men, generally speaking, in this country could get employment.

3192. Do you think that employers would be as willing to take prisoners into their service from such a stage of employment under Government as they would from a similar employment under benevolent associations?—If no influences were used by benevolent persons, I should consider it exactly the same; but I am free to admit that benevolent persons, taking such establishments under their charge, would be more anxious to secure employment for the persons under their charge than could possibly be done under Government.

3193. Will you state the nature of the house of refuge in Wakefield?—Yes. It is an establishment for women, into which, after they leave prison, they go voluntarily for a length of time; two years; they remain there, having feminine employments, washing, and sewing, and so on; and they stay there until that length of time has elapsed, or at any rate until such a time as the managers there can give a certificate that they are able to go out, even as domestic servants. It has answered very well indeed; for the applications to that establishment for servants are very numerous, much greater than they can supply. I believe they have at this moment 15 applications on their books for servants. In every instance in which they have sent out persons as servants, it has succeeded. Persons have left there voluntarily, and persons have, in two or three instances, been dismissed; but in every instance in which they have sent out servants it has answered satisfactorily.

3194. Do you think that a similar house of refuge could be constructed for males?—I do. That is the sort of house of refuge which brought it particularly to my mind.

3195. What is the mode of admission, and who are admitted into this house of refuge?—Any woman who applies to me, to the chaplain, or to any person, if she gives reasonable hope in our minds that she applies honestly and straightforwardly to go to that place to reform, goes; it is confined entirely to prisoners.

3196. Sir

3196. Sir *John Pakington.*] Only prisoners in your gaol?—When I say only prisoners, at one time there were not sufficient prisoners to fill the establishment, and the public actually asked to have others in.

3197. But as a rule it is confined to prisoners?—As a rule it is.

3198. Mr. *Adderley.*] By whom is that house of refuge supported, and by whom is it conducted?—It is supported by voluntary subscription, part from the public, but generally from the magistrates of the West Riding. It is conducted by a committee of ladies, under the superintendence of a committee of magistrates.

3199. Sir *John Pakington.*] How many does it hold?—It is now capable of holding 30, but I am sorry to say it has not 30 in it, because the funds cannot be had to support that number.

3200. What is the rule as to the period for which women may be detained there in the event of not getting service?—I know of a little girl having remained there three years, but it was not because they could not get service for her, but because they were not satisfied to allow her to go out.

3201. What is the rule?—Two years.

3202. Mr. *Adderley.*] Do any emigrate from there?—None. They all go into home service in the neighbourhood. We know the history of every one of them who goes out.

3203. Mr. *Monckton Milnes.*] Is not the success of that establishment mainly owing to the energy and zeal of one especial lady?—Yes, of course it is. In all such establishments the excellence of management is owing to one or two persons.

3204. Will you give that lady's name?—Mrs. Christie Bailey.

3205. Mr. *Adderley.*] Is there any plan of benevolent individuals giving security for the good conduct of prisoners taken into service from there?—None. The lady herself is the guarantee; her word is taken if she is of opinion that they are fit to go out into service.

3206. Mr. *Wickham.*] I believe many people prefer taking servants from that place to taking them from anywhere else?—Yes. They are taught washing, sewing, and cooking. They make excellent servants.

3207. Sir *John Pakington.*] They turn out well?—They do, very well indeed; in fact they have all turned out well that have been sent out from there.

3208. Mr. *Adderley.*] Can you say how many years that establishment has been going on?—Eight or ten years.

3209. Mr. *Beckett Denison.*] Do you receive any notice from the Secretary of State's office of the number of tickets of leave which have been granted; when any body is sent down into Yorkshire, do you receive any notice of it?—No; when any person is committed to Wakefield I send a notice.

3210. When a prisoner has received a ticket of leave, do you receive any notice?—None.

3211. Would not it be an advantage, so long as tickets of leave are granted, that some authority in the district should know that tickets of leave have been granted to a certain number of persons?—I think it would be a very great advantage, not only that they should know the general number of them, but that they should know the individuals. I do not approve at all of the police not being informed, and I would, as a general rule, make the police agents. Instead of giving these men 5 *l.* or 10 *l.*, or whatever amount of money is given to them, I should forward a certain authority either to the chief of the police or to the overseer of the poor, to pay to a man a weekly sum, amounting, if thought proper, to the very same sum that he would be entitled to; as these men, as a rule, go home, every one knows about them; if they do not go home, they are bad men, and do not deserve anything at all, but as a rule they all do go home. The majority of the convictions, 60 per cent. or more, are second convictions from the same place as the first.

3212. Do you remember how much per annum, or thereabouts, the prisoners in Wakefield prison earn; what the value of it is?—Yes; they have averaged in actual money, (which money has been paid to either the Government treasurer, or the treasurer for the West Riding, according to whether they were the Government prisoners or the others), 5 *l.* each per annum; the earnings are 5,000 *l.* if there are 1,000 prisoners.

3213. You keep a separate account as regards the Government prisoners, and also an account as regards the Riding prisoners?—We do.

3214. Does each of them average about 5 *l.*?—Each averages about that; the Government prisoners average more than 5 *l.*, and the West Riding prisoners rather less than 5 *l.*

Mr. *E. Shepherd.*

16 June 1856.

3215. If that system to which you have alluded as a sort of reformatory system were generally adopted, do you think that the work which the parties were called upon to perform would interfere with the general trade of the country in any way?—No. I have expressly guarded myself against that, by stating that the work should be such work as the State pays for; the clothing of every description worn by prisoners; the clothing of every sort worn by the army.

3216. You stated the clothing worn by soldiers?—And sailors.

3217. Would not that to a certain extent interfere with the general trade of the country?—Yes; but if it is a benefit to the State, of course it has a right to do it.

3218. Are you of opinion that it would be carried to such an extent that it would create any feeling adverse to it out of doors?—I do not think it would eventually; there might be such a feeling for a short time.

3219. Will you state generally what you manufacture in the prison?—The manufacture in the prison at Wakefield is generally the making of mats; the using up of a material called cocoa fibre, which is really and truly a prison trade; it was introduced in prisons, and has been continued in prisons, so that there has been little or no objection from the public to it, because it is a trade which has at all times, since the material came into England, been carried on in prisons.

Police Inspector *James Brennan*, called in; and Examined.

Police Inspector *James Brennan.*

3220. *Chairman.*] ARE you an Inspector of the G. Division of the Metropolitan Police Force?—Yes.

3221. How long have you been in that force?—Twenty-five years.

3222. Have you been principally employed in detective duty?—For the last 17 or 18 years, principally.

3223. Have you had a great many prisoners in your custody for all classes of offences?—I have.

3224. Including the most serious?—Yes.

3225. What punishment do you find to be that which they chiefly dread?—Transportation.

3226. Do most of them dread that more than any other punishment?—All of them.

3227. You would describe it as a universal feeling among them, would you?—Yes.

3228. Upon what grounds does it appear to you that they dread transportation more than any other punishment?—One ground is leaving their native land, and their being divided from their old associates, and the uncertainty of ever coming back; any punishment that can be inflicted on them here is not at all adequate to the dread of transportation.

3229. Does that appear to you to be the feeling also of the classes to which they belong; the people who have not yet been guilty of offences, perhaps, but loose characters?—All classes.

3230. Has that been the case during the 17 years which you mention?—Yes.

3231. Mr. *Adderley.*] Equally so throughout?—Equally so throughout; there has been a constant dread of transportation.

3232. *Chairman.*] The feeling of dread of the punishment of transportation is as strong now as it has been at any time that you speak of?—I think it has been stronger recently; since penal servitude was substituted for transportation the feeling has been stronger.

3233. By "transportation," do you mean transportation to one of the colonies, or do you reckon in it the punishment at Bermuda and Gibraltar?—Yes.

3234. You call all punishment beyond the sea transportation?—Yes, it is much dreaded by all classes of prisoners.

3235. Do you know which they seem to dread most?—Transportation beyond the sea.

3236. Do you know to which of those places that we speak of?—No.

3237. But it is transportation beyond the sea that they dread?—Yes.

3238. Whether to Bermuda, or Gibraltar, or to Australia?—Yes.

3239. Do they dread it more, and considerably more, than penal servitude, in your judgment?—They do.

3240. So far as you can judge, is a sentence of four years' penal servitude considered by them as equal to the old sentence of seven years' transportation?—No, nor six years.

3241. Or the other terms of penal servitude which are substituted?—Not any punishment in England would be adequate to the dread of transportation with all of them that I ever had any conversation with; I have had conversation with many.

3242. Is there any class of the criminal population which appears to you to have a particular dread of transportation?—There is a certain class which has a particular dread of imprisonment more than others, and that is a party known to the police as the Swell Mob.

3243. My question was with reference to transportation; is there any one class which you have observed that has a peculiar horror of transportation?—They have generally a horror of it.

3244. You have not noticed it in one more than in another, in fact; but you say it is felt by all?—These well-dressed thieves dread transportation, or imprisonment of any description, more so than any other class of prisoners. I have had it explained by them stating that they were taken from luxury, and put to starvation, in coarse clothes, with application to business, and low diet.

3245. Have you seen many ticket-of-leave men?—A great many in the low neighbourhood which I have been attached to for many years.

3246. What neighbourhood is that?—St. Luke's, Clerkenwell, and about that neighbourhood. There are a great many ticket-of-leave men there.

3247. When you speak of ticket-of-leave men, do you mean those who come out with that document which I now hand to you, with an endorsement at the back of it; is that what you mean by a ticket of leave?—Yes; I have had many.

3248. You are not speaking of a conditional pardon?—No.

3249. Do the numbers of the ticket-of-leave men seem to you to have been increasing lately?—Yes.

3250. Are there many of them who, in your opinion, have tried to get an honest living since they came out?—Very few.

3251. That have even tried?—Very few. They have come back to their old associates, and mixed up with them.

3252. And that, I suppose, is the case with persons whose sentences have expired?—Yes, as well as the others.

3253. Do the police take notice of the ticket-of-leave men, unless they commit some other offence?—No; they receive orders to the contrary.

3254. What are the orders which they receive upon that point?—Not to interfere with them under any circumstances unless they are found committing offences.

3255. I suppose you mention to each other that such a man is a ticket-of-leave man?—Yes, and it is very necessary.

3256. Mr. *Monckton Milnes.*] Why is it very necessary?—Because it is necessary that we should know them from their habits, as their general conduct is bad. They never seek employment, but mix up with their old associates; and we find it necessary to keep a watchful eye upon them, although not interfering with them.

3257. *Chairman.*] Do you think that you are able to say with accuracy that these men never seek employment?—If they seek it, they do not get it.

3258. May not that be a different thing; might there not be great difficulties in the way of a man of that description who might wish employment in getting it?—I will give you my reason. I see them in the neighbourhood, some of them well dressed, going out with a spare coat on their arm, and seeking no employment. I have watched them in various parts of the town at the places of public resort. There are only two of them I know in the neighbourhood seeking employment. One of those keeps a stall in the street, and the other is a casual waiter in a public-house, and I am afraid he is doing wrong from his associates.

3259. Lord *Naas.*] It is your habit to watch the bad characters in your neighbourhood, whether they are ticket-of-leave men or not, is it not?—Yes.

3260. Do you watch the ticket-of-leave men more than you do the other men who you know are of bad character?—No, unless we find them mixing up with their old associates.

3261. *Chairman.*] Do you in many cases see the ticket of leave itself?—I have done so on several occasions; not many.

3262. But not in many of those cases of which we have been speaking?—No; they generally destroy them; they will not carry them.

Police Inspector *James Brennan.*

16 June 1856.

3263. Then how do you know that a man is a ticket-of-leave man?—From my knowledge of his going away, and the time, and inquiries that I make.

3264. Are you able to tell generally that he is not a man whose sentence has expired?—Yes, from the time that he has gone; and I make my inquiry accordingly.

3265. Where would you make the inquiry?—Of those who had had him in custody; the police court from which he had been committed, and the length of time, and probably the police station. I have records myself that I can refer to.

3266. Do you find that they generally return to the same districts of the metropolis?—Principally.

3267. That they come again into the presence of the police of the district from which they originally went?—Yes; and a great many of them have been sent back through the vigilance of the police in detecting them in crime.

3268. Have you laid complaints against the ticket-of-leave men for other things besides indictable offences?—No.

3269. On the back of the ticket of leave there is an endorsement, that if the person associates with notoriously bad characters, leads an idle and dissolute life, or has no visible means of obtaining an honest livelihood, then his ticket of leave may be revoked; in any of those cases have you thought it your duty to make a representation to that effect?—I do not think I should interfere with a man in the latter case, namely, having no visible means of getting his livelihood. I do not think I should interfere with him unless I found that he committed some criminal act.

3270. If you saw him associating with notoriously bad characters, without your knowing of his having committed a second offence, would you think it right to lay an information against him, and have his ticket forfeited?—No, I should not. I should cause him to be watched then until he committed an offence.

3271. That is the only step you would take?—Yes, although it would be necessary to take the other; but then it might be construed into a meaning that we wanted to deprive him of his livelihood, and I am very cautious upon that.

3272. Do you think that that is the understanding upon which all the police go?—That is the understanding which I act upon.

3273. Have you reason to believe that others of the police do not act quite in the same manner?—I know that those are the instructions which they receive, and I believe they generally carry them out, not to interfere with them if they are endeavouring to get a livelihood.

3274. Are those instructions given by persons in authority at the head of the force?—By the Commissioners of Police, under no circumstances to interfere with them, if they are endeavouring to procure an honest livelihood.

3275. Are there any written instructions of that kind?—Yes, there are orders to that effect issued from the Commissioners of Police.

3276. Have you a copy of them?—I have not.

3277. Have you one at home; do you think you could produce one to us?—Yes; I think a copy of the order might be obtained at the Commissioners' Office. There are written orders issued from that office every night for the instruction of the police generally; and amongst others this is an order issued, not to interfere with them if they are endeavouring to get an honest livelihood.

3278. Not to interfere with whom; just let us have the words as nearly as you can?—The ticket-of-leave men.

3279. The ticket-of-leave men are mentioned by name in it, are they?—Yes, such as licensed men; perhaps not by that exact name.

3280. Lord *Naas.*] Does that order apply also to men whose sentences have expired?—It applies to all; I do not think that anybody would interfere with either, unless he found them committing some offence or about committing an offence.

3281. Mr. *Monckton Milnes.*] Are you any more vigilant about ticket-of-leave men than you are about other men whose characters you suspect?—No, certainly not.

3282. Lord *Naas.*] Do you take more care to avoid the appearance of looking after them than you do after other men of bad character?—I do not know that I should myself.

3283. You make no difference in fact?—No; if I found a man about committing an offence, I think I should keep him under close observation, and watch him, and call attention to him.

3284. Or if you suspected him?—Yes.

3285. Mr. *Monckton Milnes.*] Do you happen to know of any slang name for ticket-of-leave men, by which they are called?—No; the thieves are known to the police, and they are designated among themselves by different names, such as a cracksman, that is a housebreaker.

3286. Do the thieves and bad characters give any particular name to a ticket-of-leave man?—That would apply to his former calling before he left home; we should know him amongst that class.

3287. You do not know that they call the general ticket-of-leave class by any particular name?—No, I do not; they would call a returned transport an old lag; that would be the name for those men amongst themselves and amongst the police.

3288. *Chairman.*] Is there anything which you think could be recommended for improving the system of tickets of leave, if it is to be kept up?—To find them employment, and to keep them from their old associates, if possible.

3289. Mr. *Monckton Milnes.*] When you say that hardly any of them get any employment, has that been your experience throughout?—My own experience; my own personal observation.

3290. That the number who obtain employment is very few?—Very few; I think very few would employ them, knowing that they had lost their character.

3291. Mr. *Beckett Denison.*] Is a ticket of leave of any use to a prisoner?—They very seldom carry it.

3292. Would not a man who was likely to return to crime destroy his ticket of leave for fear of its being considered a proof that he had been previously convicted?—I stated so; that they very seldom carry them; they destroy them, because they shall not be found upon them.

3293. Mr. *Monckton Milnes.*] When you use the words that they have "lost their character," do you think that the employers draw any distinction between ticket-of-leave men and criminals who have served out all their sentence?—No; I do not think they would; but employers are greatly reluctant in employing any persons of that description, either as carpenters, bricklayers, or in any other capacity, to send them to a gentleman's house; they would be very reluctant in employing a convicted felon to send him to a gentleman's house in case of losing his employment. I think that would be the reason, and it is the reason which I have heard them assign.

3294. Do you think that other artisans would object to working with a ticket-of-leave man?—I think they would; some would. I think men of good character would not like to mix up with those men.

3295. Something disagreeable would be likely to occur?—I think so. I do not say so of my own knowledge, but it is as I think.

3296. Lord *Naas.*] Have you seen any women who have been released on tickets of leave?—I have, many.

3297. What is their state?—Their state is the dread of transportation. They go back to their old haunts again.

3298. Do you think that they are in a worse state than the men as regards crime and conduct?—I think they are.

3299. What generally happens to women who are released either on the expiration of sentence or on ticket of leave?—The generality of them that I know come back to their old haunts and associates again, and take to committing crime.

3300. Are they generally living in an immoral state; are they generally prostitutes?—They are not living in a moral state.

3301. In an immoral state?—In an immoral state. Although they do not walk the streets for a living, they cohabit with men.

3302. Do you know any instances of women who have been released on tickets of leave who are doing well and living respectably?—I do not know one.

*Jovis, 19° die Junii, 1856.*

MEMBERS PRESENT.

| | |
|---|---|
| Mr. Baines. | Mr. John Wynne. |
| Sir John Pakington. | Mr. Massey. |
| Lord Naas. | Mr. Deedes. |
| Mr. Adderley. | Mr. Monckton Milnes. |
| Mr. Serjeant O'Brien. | Mr. Ker Seymer. |
| Mr. Wickham. | |

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

The Hon. Sir *William Erle*, one of the Judges of Her Majesty's Court of Queen's Bench; Examined.

Hon. Sir *W. Erle.*

19 June 1856.

3303. *Chairman.*] YOUR Lordship is aware that this Committee has been appointed to inquire into the operation and the provisions of the Act of the 16th & 17th of Victoria, intituled, "An Act to substitute, in certain Cases, other Punishment in lieu of Transportation." The Committee are anxious to have any information or suggestions which your Lordship can give them with regard to the subject of this inquiry. I beg to ask you, in the first place, are you of opinion that the punishment of transportation is itself a valuable one?—Yes; according to my observation it was valuable in the two respects in which punishment is necessary. It was very impressive, I think, upon those who heard the sentence of transportation pronounced, and it was in its tendency reformatory, as respected those upon whom it was inflicted; that is to say, it gave to them an opportunity of forming new habits among new associates; whereas I believe that there is a great difficulty while they remain in this country, with many of them, in turning from crime.

3304. When the sentence was pronounced, did it appear to your Lordship to have a peculiarly deterring effect?—I think very strongly indeed. It seemed to me to be a most desirable punishment, in creating a great deal of fear, and in many instances not producing a great deal of pain upon the party; to those who were hearing it, who had a place in society, and who thought of being suddenly removed to an unknown country, and among unknown associates, the idea was a matter of extreme terror, and so the sentence was very impressive at the same time upon the criminal; for the reason I have before given, I think it operated without the infliction of severe pain.

3305. Does it appear to your Lordship that the punishment of transportation is open to more of the objection of inequality in its operation than other punishments?—I am at a loss to see that it is more revolting to persons of education and station in life than the operation of imprisonment with penal servitude, and association with the persons with whom they are there necessarily brought in contact. Indeed, I should say that it is rather less so. I should expect that a transported criminal has much more opportunity of avoiding the association of other criminals than he would have if he was sentenced to penal servitude.

3306. Does the sentence of penal servitude when pronounced, as far as your Lordship's observation has gone, appear to carry with it the same amount of terror that transportation did?—I do not think it does. I think it is more definitely understood that it is confinement for a certain period; a confinement with no great physical suffering; a confinement that is painful only by taking the party to be imprisoned away from his ordinary habits and ordinary associations. I do not think that it is so impressive as a sentence of transportation by a great deal.

3307. I presume your Lordship's opinion is, that it would not be advisable to part with so much of the power of passing a sentence of transportation as is still left?—I think that it is very desirable for this kingdom, if it can, to get rid of a very noxious portion of its inhabitants; and I think it very desirable for that portion of the inhabitants to give them the opportunity of being reformed, which I have

I have before adverted to. It is highly desirable to keep transportation if it can be kept.

3308. For the same reason, would your Lordship be of opinion that it would be desirable to resume the power, if you could do so, in certain cases where it is now taken away; for instance, as regards sentences of 10 years' transportation, which can no longer be passed?—I think the same reasoning would induce me to answer that question in the affirmative.

3309. Have you been able to form any opinion as to what the actual operation of this Act of Parliament has been, whether favourable or otherwise?—I have had no information inducing me to believe that it has led to any increase of crime.

3310. Have you formed a judgment as to whether it is likely in its operation to be favourable or otherwise?—If I understood how a sentence of penal servitude was to be executed, I could give a more definite answer to that question. The sentence of transportation, I think, was in great part remitted if the criminal behaved well. With my understanding with respect to penal servitude at present, no part is to be remitted, and if that is so, I should think that the operation of the sentence of penal servitude would degrade the mind of the criminal considerably. My opinion is, that a sentence is to be passed for the purpose of impressing the notion that crime leads to misery; and I think the execution of the sentence is best when it impresses on the criminal the notion that turning from crime is turning from misery; so that if the sentence could be executed in such a manner as to give him hope and to give him a means of exercising his will, and choosing his motives and forming his habits, that would be the best mode of executing it. Giving the hope of remission on account of good conduct, with an opportunity to show that he really has improved his mind, and determined to change his habits, would be the best mode of executing the sentence. Penal servitude, as I understand it, is confinement for the full period, and, if so, it would seem to me to prevent these requisites to which I am adverting.

3311. Has there been an uncertainty among the judges, or in your Lordship's mind at all events, as to what was implied distinctly by a sentence of penal servitude?—I have always endeavoured to form as accurate a notion as possible of the meaning of the words which I have used, sitting as a judge; I have therefore visited Dartmoor Prison, and formed my opinion from that.

3312. I mean as to whether any portion of the sentence was likely to be remitted, or otherwise?—Upon the best inquiry which I have been able to make, merely upon common rumour, I have understood that the intention of not remitting it for a time preponderated with the Government.

3313. Has that been your understanding from the first?—From the first; but I cannot say that I have any definite information. I never took the liberty of asking any persons who have the official power in that matter.

3314. Your Lordship adverted just now to the importance of having hope present to the mind of a prisoner as an inducement to good behaviour; do you attach great importance to that consideration?—I attach very great importance to it in my mind. I think that the imprisonment of a man for four years in company with degraded criminals would probably have an ill effect, and if any communication passed between them, it would have a degrading effect upon his mind, he being confined without hope; but if there was the hope by good conduct of a part of the sentence being remitted, I think it would be a great motive for improvement.

3315. One subject of our inquiry here is into the particular provisions of this Act of Parliament, and if there is any one upon which your Lordship can favour us with any suggestions for its improvement, the Committee will be extremely happy to be favoured with those suggestions; have you a copy of the Act before you?—I have read the Act lately. It appears to leave a discretional power in the judge of fixing any term of penal servitude in lieu of transportation, and the power of inflicting transportation for the terms which are mentioned in the Act.

3316. Does anything occur to you with regard to the gradation of the scale in the 4th section, as to the periods of penal servitude which may be assigned in lieu of certain terms of transportation?—Those clauses appear to me to be entirely inoperative. They are not enacted with reference to any definition of crime, so

Hon. Sir *W. Erle.*

19 June 1856.

that a certain crime should require a certain sentence; and the judge has an absolute discretion given him as to any quantity of penal servitude, the same as he had in respect of transportation. I am of opinion that any attempt to fix a graduated scale of punishment for defined offences would not be successful in its operation; I think the external acts which are tried in a court of law differ extremely in their shades of guilt, and that a court of law has no definite means of trying the internal motive which accompanied the act. A heavy sentence ought to be passed upon confirmed depravity, and a lighter sentence often where the same offence has not that characteristic. I am, therefore, of opinion that all the attempts to fix a graduated scale of punishment certain for an offence which comes within the legal definition of it, do not operate satisfactorily.

3317. It has been suggested here by some of the witnesses, that instead of the minimum of penal servitude being four years, it would be advisable to make the minimum term something more than that, five or six, with an understanding that there should be a remission of a certain portion of it in case of good behaviour. May I ask what your Lordship would think of such a suggestion as that?—My opinion would be in favour of some such change if four years was thought to be the least sentence that ought to be inflicted for crimes rising up to transportation. What I should consider would be an improvement in the administration of the criminal law as to these matters, would be, that the judge should know what his sentence meant. If the administration of the law gave a certain remission, say of one-fifth for good behaviour, the judge ought then to sentence to five years in a case where he now sentences to four years. Some such remission as that appears to me to be almost essential to the healthful action of imprisonment upon the mind of the criminal. Beyond a certain remission to be given to every criminal who conformed to outward regulations in the prison, and in respect of whom therefore there was some evidence of a reformed mind, I should think it would be advisable to give also a discretional power of a considerably greater remission where there was stronger evidence that the moral state of the criminal warranted his being returned to society without danger to society. It seems to me that there are crimes of great magnitude and great danger to society, and requiring a signal sentence as a warning against their being committed, which really do not indicate any great moral depravity; there are many instances of wounds inflicted in transient anger, or from jealousy; there is indeed the crime of rape, from uncontrolled passion at the moment. Many of those offences are of very dangerous magnitude, and require a signal sentence to repress them, because those who are conversant with crime appear to me to watch the gradation of sentences almost as a price for that which they do; and yet in many of the instances which I have adverted to, where a heavy sentence has been passed, it has been in my mind at the time, This is a person who, if it could be done without its being known, might be returned to society without any danger of his returning to a criminal course. The difficulty would be in choosing the authority which should have that power to make further discretional remission.

3318. With regard to the lowest sentence of penal servitude, your Lordship will observe, upon looking at the Act, that there is no latitude given to the judge; it is to be penal servitude for a term of four years. When you get beyond that, it is to be penal servitude for any term not less than four, and not exceeding six; afterwards it is to be any term not less than six, and not exceeding eight. So that with regard to the lowest term there seems to be no latitude given to the judge; it must be absolutely four years, or nothing; and that is in lieu of sentences of transportation for seven years?—I am well aware that the Act is so.

3319. In your opinion, would it be desirable that there should be some latitude given to the judge with regard to that lowest period of penal servitude; say ranging from four to six years, or some other period?—I see no reason whatever for moving from four to six, and from six to eight. The difficulty of estimating the exact degree of guilt which ought to be attributed to a criminal from the external acts of the offence proved in court, is very great indeed; there is nothing so definite that a judge can say, This is surely a case for six years, two years more than the four. I see no reason whatsoever for passing over the intermediate spaces. With respect to passing a sentence of less than four years, inasmuch as a sentence of three years' imprisonment is not unknown, and as far

as

as I know, imprisonment with hard labour is very little distinguishable in its operation from penal servitude. I am not aware of any importance in passing a sentence of penal servitude for less than four years.

3320. There was rather a large class of offences, I believe, punished formerly by transportation for seven years?—Yes.

3321. I think all those offences under the Larceny Acts were so punished?—It rose from simple larceny upwards, and obtaining money under false pretences.

3322. Inasmuch as those crimes vary very much, I apprehend, in their circumstances, is your Lordship of opinion that it might be desirable to give the judge a latitude with regard to that period of penal servitude which now stands in the place of seven years' transportation, so as to allow him to pass a sentence of four years', or five years', or six years' penal servitude?—As I have said before, prohibiting the gradations between four years and six, and six and eight, and eight and ten, seems to me to be without any intelligible reason at all.

3323. Is there any other part of that scale upon which any observation occurs to your Lordship with reference to an alteration of the law?—No, I am not aware of anything.

3324. Your Lordship remembers that the highest term of penal servitude is 10 years until you come to the last, where you may pronounce a sentence of penal servitude for the term of life; would it be desirable to introduce any term between those two?—I am clearly of opinion that the most satisfactory administration is to leave the extent of the sentence to the discretion of the judge, because I, according to my practice, having tried it a great many times, have been utterly unable to fix a definition of a crime which shall always be worthy of a defined sentence. The circumstances accompanying the crime vary so infinitely, and they shade off the guilt to such an extreme extent, that I have found it entirely impossible to take the outward act and always affix the given punishment deserved by it.

3325. With regard to the tickets of leave which there is a power to grant under the 9th section of the Act, will your Lordship permit me to ask whether you have any means of forming a judgment as to how that part of the Act of Parliament has worked?—I have seen some criminals convicted before me who had obtained tickets of leave, but I cannot say that there were any circumstances of great atrocity about them; and I have learned that a great number of criminals discharged upon tickets of leave have not abused their privilege; at least, have not been brought up for punishment. I should consider that, upon the whole, it had operated beneficially. It should be observed, that those who have been prosecuted again would, if they had served the full term of their sentence, possibly have reverted to crime just as much as they did when they were discharged at an earlier period. I have seen some instances where it appeared to me that the criminal tendency was so confirmed as to make the notion of a place either of perpetual confinement or of transportation very desirable. I have seen a man who, being discharged upon a ticket of leave, would give notice to the clergyman that he would attend divine service until the money was due to him at the end of six months; and, on the very day following the payment of that money, I have had him caught committing a burglary, and tried and convicted before me; that was a man advanced in life, and whose family had all been transported before. Some of those instances would be instances in which the want of a place of perpetual confinement or of transportation is very strongly marked. But I cannot say that that is the fault of the system of ticket of leave. I am clearly of opinion that that man would have returned to crime if he had been imprisoned his full time.

3326. Is there any other point which occurs to your Lordship?—There is nothing more which occurs to me.

3327. Sir *John Pakington.*] May I ask your Lordship whether the result of your experience of this new Act of 1853 has been to lead you to the opinion that the terms of penal servitude here enacted are fair equivalents for those periods of transportation for which they are respectively substituted?—I should think that for a person in the class of criminals, a person habituated to crime and intending to commit crime, penal servitude was a more severe sentence than transportation. I have no information to give you on that subject beyond what I have said.

3328. I do not think that your Lordship quite understands my object in the

Hon. Sir *W. Erle.*

19 June 1856.

question; I am not so much comparing the exact relative degree of severity between penal servitude and transportation, as asking you, looking on the whole at the nature of the two punishments, whether you think that these periods are fair equivalents for the other periods. As an illustration, I will ask you whether you think that four years' penal servitude, which is the minimum sentence, is a full and fair equivalent for the former minimum of transportation, namely seven years; which should you say was the severer sentence of the two, four years' penal servitude or seven years' transportation?—If I am to answer with reference to the effect upon the mind of the criminal and upon the criminal population, I should think that four years' penal servitude was to him a much greater pain than seven years' transportation; I should add to that explanation, that I understood that a person who was transported was for the most part assigned for labour to some private individual, and therefore became in the nature of a free labourer, and after a short period of good behaviour, of course, was entirely free.

3329. Assuming that the law remains as it now is, is it your Lordship's opinion that hereafter, when the effects and true nature of these sentences have become fully understood by the public, a sentence of four years' penal servitude will be as deterring in its effects upon the criminal class generally as a sentence of seven years' transportation has heretofore been?—I think not for the mass of the community; I think, for the mass of the community, for people who have a position in life, and who stand in some relation to honest society, the notion of sudden disruption and removal to a distant and unknown place creates a great deal of fear. I do not think that any term of imprisonment would be quite equal to that; there is an unknown mystery about it.

3330. Let me ask you whether you would not have the same opinion still more strongly with reference to the new punishment which is enacted in those cases of very serious and aggravated crime, which have hitherto been punished by 15 years' transportation. This Act of Parliament says, "Instead of any term of transportation exceeding 15 years, penal servitude for any term not less than six and not exceeding 10 years." Is your Lordship of opinion that a sentence of penal servitude for six years can be considered as any equivalent for a period of transportation of more than 15 years?—I should think that the impression upon those who heard of it of a sentence of 15 years was very much greater indeed than the impression upon them from hearing of a sentence of six years. The effect of every sentence is to be regarded in two lights, namely, as to the fear which it creates on the minds of those who hear of it, and also the effect upon the criminal himself. The question, I presume, is directed to the effect of the sentence upon those who hear of it.

3331. I understood your Lordship to say, in answer to a former question from the Chairman, that you think it would be an improvement in our criminal law if these sentences of penal servitude were carried lower than this Act enables the judges to do; that is to say, if it were competent to judges in certain cases to pass a shorter period of penal servitude than four years?—I did not intend to express that. I stated that the ordinary sentence of imprisonment could be raised up to three years. Most judges, unless it is a very extraordinary case, do not go beyond two years; but as it can be raised up to three years, and as imprisonment with hard labour appears to me to be in many gaols extremely similar to penal servitude, I said that I saw no reason for having a power to sentence to penal servitude for less than four years, there being a power to sentence to imprisonment with hard labour for three.

3332. Although our law in certain cases sanctions imprisonment for three years, the practice has been general, I think I may almost say universal, as your Lordship has just indicated, of not sentencing prisoners to imprisonment for more than two; may I ask you whether previously to the passing of this Act you were of opinion, as a judge, that there was any public inconvenience in the want of some intermediate punishment between two years' imprisonment and seven years' transportation?—I was not aware of any. According to the information which I received from gaols which were conducted with strictness, after 18 months' imprisonment I understood that the mind of the prisoner was in a manner numbed, and that the remainder of the term of imprisonment was passively endured, and that it had no effect; I understood also that the sentence of transportation was really in effect a sentence of imprisonment for a certain period, and then a removal to the place of transportation, the convict being located

located in service, with a speedy release in case of good behaviour. I thought, therefore, that the gradation from two years' imprisonment here, to seven years' transportation, so interpreted, was not too great.

3333. But I understand your Lordship to be of opinion that the objections which you have expressed as existing against protracted imprisonment would not apply to labour upon public works, or such labour as you have yourself seen in operation in Dartmoor prison?—The labour which I saw in Dartmoor prison gave very little opportunity for forming habits, or choosing motives, as far as I understood it. The hours were regulated; the work was regulated; the diet was regulated. I did not gather that in the prison discipline there was any very great opportunity for forming habits and choosing motives. The marks were obtained by external conformity to gaol regulations, which did not very satisfactorily indicate what was the course of the prisoner's mind.

3334. My question rather pointed to this: whether having seen the system in operation in Dartmoor, you are of opinion that the system of labour there carried out is of a nature to produce that deadening effect upon the mind which you have described as result of imprisonment in an ordinary gaol for more than 18 months?—I should think the servitude at Dartmoor much preferable to the servitude in one confined prison. The prisoners at Dartmoor have an opportunity of working at agricultural labour, besides many other trades.

3335. Having seen that system in operation, is your Lordship of opinion that there is any valid reason why that system should not be applied to prisoners in serious cases for almost any number of years, or for life?—Where a man is thought to be incurably noxious, I see no reason whatsoever contrary to humanity in confining him as those prisoners were confined.

3336. Do I correctly understand your Lordship's opinion to be in favour of releasing men at the end of a period of penal servitude, under tickets of leave, rather than releasing them at the extreme end of the sentence without any check whatever?—I am in favour of remitting part of their sentences, in consideration of good behaviour, with a ticket-of-leave, revocable in case the party returns to crime soon after he is discharged.

3337. But does your Lordship also think that it would be an essential part of such a system that the sentence passed should be clearly understood to involve, in all cases, a certain minimum of penal servitude?—As I understand the administration of punishment, I think that would be desirable.

3338. Mr. *Deedes.*] When your Lordship's attention was called by the Chairman to the advisability of any alteration in the scale and amount of penal servitude attached to certain crimes, did I rightly understand you to say that you were of opinion that no specific period should be attached to a particular class of crimes, but that it should be left to the judges to exercise their discretion as between the minimum and the maximum amount of penal servitude?—You correctly understood me; I have found it entirely impossible myself, as I have before stated, to get at any definition of external acts which should always be followed by a given sentence; the concomitant circumstances vary infinitely, and with them the shades of guilt.

3339. Then, inasmuch as the different periods of penal servitude in this Act represent different periods of transportation formerly passed, in any alteration of the law you would not follow a classified scale of that description, but would leave an entire discretion to the judge, applicable to any particular class of crime to which he might have to apply it?—I think so. At present the Act does not apply a given sentence to a given crime, but it assumes that a certain sentence of transportation was known as applicable to a certain crime. According to my practice that was not so; I saw the administration of the law at the time when there was a minimum sentence fixed for certain crimes, and crimes were proved before me in respect of which those sentences so fixed by Act of Parliament were absolutely revolting on account of the guilt which had attended them being so low; yet the external act constituting the crime had really been committed.

3340. Would you wish, supposing that the Act of Parliament should be so altered, that a judge, in passing in future a sentence of penal servitude of any period which he might select, should have the power of telling the prisoner that if his conduct was good a certain remission would be made of that sentence?—I should be extremely averse from drawing attention to the remission, because I look to the operation of the sentence upon those who hear of it; and the more austere and severe it seems the more it impresses those who hear of it; and then according

Hon. Sir *W. Erle.*

19 June 1856.

according to the remission which can be given in the execution of it, so much is the pain avoided with a salutary effect. I should think it would be quite time if the prisoner was informed that a remission of a part of the sentence depended upon his good conduct, after the public trial was over, and after he had begun to undergo his sentence. I look to the effect of the sentence in two ways; to those who hear of it, the more severe it appears, the more salutary the sentence; to the man who undergoes it, the more it can be remitted without danger to the community the better; and the remission might, therefore, well be left for him, and kept from the public.

3341. Mr. *Adderley.*] You would not wish that any discretion of the judge should go so far as to produce an uncertainty in the minds of the public as to the nature of the punishment?—The law is at present administered so as to leave an almost absolute discretion in the judge after the conviction; he has to say, taking all the circumstances into consideration, what the punishment should be.

3342. But you would wish that that punishment, when the sentence was once pronounced, should be definite and intelligible to all the public?—I think that in the large majority of cases it ought to be definite and intelligible, and that the fact of some remission upon good behaviour might be generally known without harm. But I have in my own mind a wish for a still further discretional power, in a very few exceptional cases, to make a further remission; in that respect, the sentence would not be for certain known. It is in practice at this moment at the Home Office; after information the sentences are altered according to what is thought to be the requirement of justice in any exceptional cases.

3343. When you talked of the effect of the sentence of transportation creating fear in those who hear of it, was your Lordship referring particularly to any kind of transportation, or did you refer to the whole period of your Lordship's experience?—The notion of ordinary transportation I have described, which was, sending to a colony and placing the transported criminal out to service, with the expectation of having a portion of his term remitted in case of good behaviour. That is the mildest form of transportation, and that appeared to me to create a great impression. There was at one time a sentence to a penal colony, which, of course, was additionally fearful.

3344. Does your Lordship consider that the sentence is as much dreaded now as it used to be some ten years ago?—By all that part of the community who have any place in English society I think it is as much dreaded as ever it was. There are isolated criminals who have given themselves up to the practice of dishonesty, and have no confirmed place; to them transportation is often a matter of hope. Such men as those I frequently have before me, and their wish is to be transported; they say, "My position in society is such that it would be better for me to be transported;" that is as to the isolated individual. With the mass of the community, who have a place in English society, transportation is a punishment which they greatly dread.

3345. Does your Lordship mean that, as far as concerns the more vagabond class of criminals, they dread transportation less?—There are some who, from being disliked by their associates, and for various reasons, have no place either in the honest or in the dishonest part of the community; to them transportation seems frequently to be an object of desire and resource. It has been a matter of frequent occurrence that a convicted criminal has said, "My object was to be transported, and I am thankful I have attained it."

3346. Mr. *Monckton Milnes.*] Is it your Lordship's opinion that a judge, by the experience which he obtains, acquires the faculty of determining whether the prisoner before him belongs to what might be called the hardened and dangerous class of criminals, or to what might be termed the class of casual criminals?—A judge has very imperfect means to answer that question; he has the facts attending the crime to be tried, and he has the former convictions brought definitely to his knowledge, and if he can find sources of authentic information, he may get some further details; but according to my experience, the last source of information ought to be most sparingly resorted to. The man then stands convicted, and I have felt it my duty to pass a sentence, not defined, but approximating to a known scale, and I have had reason to think that in many instances the party has been led into crime for the first time, or that there has been other mitigation. I have very imperfect means for finding that out.

3347. I understood your Lordship to say that you thought that it was very advisable that considerable latitude should be given to the judge in the administration

administration of punishment. Is not that somewhat irreconcileable with what your Lordship has said as to the difficulty which a judge has in determining the real guilt of the prisoner?—With reference to the external act, I could give my meaning by an example. I will take a case of forgery, at the time when the law was fixed, and there was a statutable sentence for forgery. A man was convicted before me of forging his brother's name to the conveyance of an estate, and it appeared that he was a man of simple mind; that he was informed by the attorney that his brother was dead; (his brother had been transported, and had not been heard of for nine years), and that his title would be much more marketable if he personated his brother. He therefore forged his brother's name, and the same attorney carried off all the purchase-money of that estate. His brother returned from transportation, and the prisoner was convicted before me of forgery. The very circumstances of the crime brought before my mind a man who had been deluded into committing a very serious crime, but what he believed was no harm to anybody. In that case I thought that a very low sentence was sufficient for him. I put that as an example where the very proof of the crime and the mode in which the crime was committed would bring certainly to the judge's knowledge that there was very little guilt in the criminal.

Hon. Sir *W. Erle.*

19 June 1856.

3348. Your Lordship, I think, has stated that one of the matters which the judge has always to keep in his mind, is the effect of the sentence upon public opinion; does not your Lordship think that that action is almost always in proportion to the certainty of the punishment which follows the offence?—If there was a notion generally abroad that the sentence was merely nominal, of course its impressiveness would be gone; but I think that a sentence of five years' penal servitude, generally understood to mean four years, provided the criminal behaves well, and five years if he does not, would be duly impressive, and would have a beneficial effect. It is a question of degree how much there is an uncertainty about it.

3349. Would your Lordship be inclined to recommend that the possible or probable remission of a certain portion of the sentence under good behaviour, should be made part of the sentence itself?—I am of opinion that it ought not to be so, for the reason which I adverted to before. I think that a great number of the community would not understand accurately the regulations for the administration of penal justice; the words which would go forth would be, "five years' penal servitude;" and to all who understood nothing about remission, it would pass for a sentence of five years' penal servitude, and would be proportionately impressive.

3350. When the criminal class themselves get to know, and through them the rest of the world, that a sentence of five years' penal servitude really only means, in the case of decent good behaviour, four, does not that introduce an element of uncertainty, which is likely to be exaggerated and perverted in the mind of the public?—I do not expect that with the persons who trade in crime there is any likelihood of inaccurate knowledge. It has been almost a marvel to me in many instances, where the fact has come out in evidence, how the criminal in his conversation with the policeman has exactly measured the sentence which, with my experience, I was about to pass upon him. I do not think that with those who trade in crime there is any danger of their having inaccurate information about it.

3351. Is it the impression of your Lordship that the clear and manifest inclination of public opinion of late years towards a more reformatory and less purely corrective system of prison discipline has had the effect of diminishing the terrors of the law to evil-doers?—The administration of penal justice has been in such a state of transition for a great number of years past, that I do not think anybody definitely knows the course which is about to be pursued. At this moment the meaning of penal servitude is scarcely a fixed idea. Looking at the increase or decrease of crime, I see no reason for thinking that those who trade in crime have the idea that there is a great deal of impunity.

3352. Does your Lordship think that it is of very great importance that we should return, as fast as possible, to more precise and distinct definition upon these subjects?—It would be extremely desirable if the sentence could be precisely measured so as to be most impressive to those who hear of it, and most reformatory. I have a desire to attain that point, and I am not aware of

Hon. Sir *W. Erle.*

19 June 1856.

any course better to be pursued than the experimental course which I consider is now in process.

3353. Mr. *Deedes.*] In the case of a second conviction, where a man has been punished, by say five years' penal servitude, and released after four years' good behaviour, and has again relapsed into crime, and again received punishment, does your Lordship think there would be any advantage in taking away, for certain reasons, the power of remitting any period of his second term of punishment?—I am of opinion that the universal prohibition of any discretion would not be salutary. I might take a case of a second conviction before me of a woman who stole food for her starving children, and they proved that she had been before convicted of burglary. That woman called the constable of the parish, who stated that at the time when she was supposed to have committed the burglary in question she was confined of a child. That the stolen property of the burglary had been found upon her, but had been stolen by her husband, and she had pleaded guilty to the burglary for the purpose of screening her husband; she was, therefore, within the definition of a person having been before convicted of burglary, and again convicted of larceny. But taking the circumstances which I have stated, she was a person deserving commiseration and support rather than severe punishment.

3354. Mr. *Adderley.*] Do you approve of the provisions of the 11th clause of the Act for revoking licences; namely, that by warrant, upon mere information, without a hearing of the charge, a man should be recommitted to prison?—I should think that it was extremely dangerous; it depends upon the extent to which those who exercise the power take care that they are correctly informed. It is a power to be exercised by the Home Secretary, and unless he takes care to be correctly informed, it is a very dangerous power; if he is correctly informed, it is a salutary power. I think a discretion ought to be left, because I believe that returning to the haunts of thieves, and consorting with thieves, and teaching young thieves how to commit crime, is one of the dangerous results of tickets of leave to some persons; and in such a case as that, although no crime could be proved, it would be very salutary to cause that person to return to prison.

3355. You think that there are cases in which recommittals should take place without giving the prisoner an opportunity of defending himself upon the charge?—I think so. I should be very cautious about entrusting that power; but in such a case as I have supposed, I think it might be very salutary.

3356. Your Lordship sees no danger in such a power of recommittal upon the grounds simply of living without any visible means of an honest livelihood, and living in suspicious circumstances?—The extent of grave suspicion would be the guiding point for that. I can well conceive an old offender consorting with known thieves, and being seen constantly in company with them, who are found to be in the course of committing crime. If I was entrusted with the power under such a state of circumstances, I would have the man returned to prison.

3357. Does your Lordship think that such circumstances would be justifiable grounds for depriving a man originally of his liberty?—Certainly not. I consider that the man has been convicted of a wrong, for which he is liable by law to the term of imprisonment in question, and that he has received a conditional remission, and that the terms of that condition might authorise the remission being revoked arbitrarily. A man could not complain of that.

Sir *Richard Mayne,* K.C.B., called in; and Examined.

Sir *R. Mayne,* K.C.B.

3358. *Chairman.*] I BELIEVE that you were at the head of the Metropolitan Police when the Act into which we are now inquiring passed, and that you have ever since held that office?—Yes.

3359. Will you favour the Committee with your opinion as to the effect of transportation as a punishment, so far as you have had the means of judging from information which has come before you in your official character?—In my opinion it was a very valuable punishment, and a mode of relieving this country of criminal characters, also as the best means, I believe, of enabling those to reform who are so disposed.

3360. Is it, in your judgment, calculated to exercise a peculiarly deterring effect upon the classes from which the criminal has come?—From all the inquiries which I have made (and I have repeatedly asked the police officers who

who come more immediately in contact with criminals) their opinion is decidedly that transportation was one of the punishments most feared by criminals as a class, differing of course very much according to the circumstances of the individual. It was a much severer punishment for persons who had ties here of family or connexions of various kinds, than to the young isolated criminal, desirous of reforming. It was also much less dreaded by the criminal, who felt that it gave him his best chance of escaping from associates and habits here which almost necessarily led him to return to the commission of crime on being released from punishment.

3361. In your judgment it would not be expedient to part with the punishment altogether?—I am clearly of that opinion.

3362. Are you also of opinion, that if the difficulties which caused the passing of the Act of 1853 were removed, it would be desirable to resume the practice to a certain extent?—I believe it would be advantageous in a very great degree, as relieving this country from a number of criminal characters, who from their old associates and habits of life, the difficulty of obtaining employment, and other circumstances, in a country where society is in the state in which it is in England, must find it almost impossible, or exceedingly difficult at all events, to live by honest courses; and it would likewise give, I think, to many the best chance, indeed to many perhaps the only chance, of living by honest means.

3363. Are you of opinion that, with regard to the classes to whom you have now particularly alluded, any system of imprisonment which could be devised, would fully compensate for the want of the power of transportation?—I do not see how any system of imprisonment (and of course systems of imprisonment in England must be necessarily for limited periods,) can get over the difficulty of a criminal having to return to a state of society in which it is exceedingly difficult to get honest employment with his tainted character, and where the associates and habits which perhaps led him into the commission of crime, or at all events to which he was used when he was in the habit of committing crime, again offer him the temptations to return to criminal habits. I likewise think there is a very great advantage in sending criminals to a new country where employment is more easily had, and where there are not those temptations from associations, and from former habits and connexions, with criminal characters, which induce men to return to crime.

3364. Have you formed an opinion as to the actual effect which has as yet been produced by the Act of 1853, as to whether it has been favourable or otherwise?—I have watched it as far as I have had the means, with great interest, and I have, I may say, very reluctantly, come to an unfavourable conclusion as to its operation.

3365. Will you have the goodness to state to the Committee the grounds upon which you have found yourself obliged to come to that conclusion?—I do not refer exclusively to the system of ticket of leave, but to any system by which persons are, after short periods of imprisonment, returned to society here. It sends back into society persons who have committed serious crime (the number is already considerable, and is of course rapidly increased) upon many of whom I think no great change could have been effected, considering the short time that they have been in prison, and the associations, and the temptations which surround them immediately upon their release; and what I think is a very important part of the question, the difficulty of getting employment, so as to earn their living by honest means. I think that such a combination of circumstances almost necessarily compels or induces many to return to the commission of crime. The number has been greatly increasing of those whose tickets of leave have been revoked. I have here a return, month by month, of the number of those who are sent to prison; they are always committed by the chief magistrate of Bow-street, and his warrant is executed by the police. I find that the whole number is 174, whose licences have been revoked.

3366. For what district is that?—This I believe applies to the whole of England; all the criminals are recommitted by the warrant of one of the police magistrates; the chief magistrate of Bow-street, I believe, issues the warrant.

3367. Mr. *Adderley*.] It does not include Scotland and Ireland?—No, only England; they are all recommitted in the custody of the metropolitan police, so that in that way I have the returns in my own office. In July 1854 there were 3, in August 1, in November 5, and in December 4, making 13 for those

Sir *R. Mayne*, K.C.B.

19 June 1856.

those four months of 1854, whose licences were revoked. In 1855, in January there was one; in February one; in March six; in April eight; in May four; in June seven; in July twelve; in August five; in September six; in October eleven; in November eight; and in December eight, making 77 for the year 1855. Then for the six months of the present year the number is 84, being in January 11, in February 17, in March 13, in April 19, in May 18, and up to the 16th of this month six.

3368. Sir *John Pakington.*] Do you know the gross numbers in the two years who have been at large?—A few more than 5,000, I believe, have been released.

3369. I presume that the number at large on this day are considerably more than they were this day 12 months?—I am quite aware of that; I do not give this as the per-centage.

3370. It must be taken with that qualification?—Of course it must; but looking at it as a question of police, it shows the number of persons who are released after short periods of improvement who return to the commission of crime, for which they are convicted.

3371. *Chairman.*] It would not show the comparison between the number of persons whose licences have been revoked in a certain month, and the number of persons at liberty on tickets of leave at the same time?—No. I merely mention it as showing the difficulties which the police have to deal with from the increased numbers of those who commit crime, after release from imprisonment, under the present system; I do not believe that any licence has been revoked unless the party has been actually convicted for crime.

3372. The conditions endorsed go somewhat beyond that, as you remember?—Yes. There may be a few exceptions, but as far as my knowledge goes, my belief is that the practice of the Home Secretary is not to revoke a licence, unless the party has been convicted of crime. There are likewise a great many cases in which licence holders have been convicted of crime, where the licence has not been revoked for this reason, that the sentence for the subsequent crime covers the whole period of the original sentence, and extends beyond it, so that it was of course useless to revoke the licence. Supposing the party's licence has two years to run, and he is convicted of a crime for which he is sentenced to seven years, it is of course unnecessary to revoke the licence, inasmuch as he is committed for a still longer period. But, again, I think that the number of licences revoked, or the number out on licence who have been convicted, does not show the extent of the evil arising from such numbers of experienced and skilful criminals being set at large in our state of society. In last January I called for a return from each superintendent, as far as his knowledge went, without making special inquiries, but from that which was under the eye of the police, as to the occupations of those who were known to be out on tickets of leave. I have got that return here. I do not know whether the Committee would wish me to read it; it shows that there was a considerable number of those, who I think it is not unreasonable to suppose were living, at least partly, by criminal pursuits, by the commission of crime, and yet against whom no specific crime could be proved so as to make it a justifiable case for the Secretary of State to revoke the licence. Most of those cases are of persons associating with thieves, day and night, and not known to have any honest means of earning a living; under those circumstances the police conclude that they are living by criminal courses.

3373. Have you that information drawn out in a tabular form?—I have the return here.

3374. Have you satisfied yourself of the accuracy of that information?—Yes, I believe so. I have questioned the superintendents; they always make these returns upon their responsibility, and I have specially cautioned them to be very accurate. I believe there are many cases which, for fear of being incorrect, they have omitted. And perhaps it would not be unfit for me to mention here the memorandum which I gave to the police upon the Act coming into operation, directing the police not to keep the same observation upon those men released by ticket of leave as upon other persons who had been convicted of crime.

3375. Have you a copy of those instructions?—I have.

3376. Will you have the goodness to read it?—It is a copy of the instructions which I gave, I think, in September 1853.

3377. Were these instructions given to the whole of the Metropolitan police?

To

—To the whole of the police. "The superintendents are to instruct the constables and serjeants of their divisions with reference to the experiment that is to be tried of releasing convicts on ticket of leave, that the police are to be careful not to interfere with them so as to prevent their following any honest course for earning their living; with this view, should any of these parties have obtained employment, notice is not to be given to the employers that they have been convicted, nor when seen in public-houses are they to be pointed out to the landlord, and required to leave, as in other cases of convicted thieves and suspected characters." I thought I was going to the extreme length in providing for the police not pointing these men out to parties, and giving them the information for guarding themselves against any mischiefs that might arise from employing persons who had been liberated on tickets of leave; still that was the memorandum given, and upon which the police have, I believe, always acted.

Sir *R. Mayne*, K.C.B.

19 June 1856.

3378. Have you ever varied those instructions since?—Never. I do not remember any case in which a man on ticket of leave has complained to me of being unfairly treated by the police.

3379. Is it understood throughout the police that you, at all events, direct that that shall be the course of action on the part of the police?—Undoubtedly; a memorandum given in this way is read in the first instance to every constable, and is read once a month afterwards; and any man disobeying this order would be punished for the mere fact of disobedience.

3380. Sir *John Pakington.*] You have no reason to doubt that those instructions have been fairly acted upon by the police?—I have none whatever; I do not remember any case in which any complaint has been made by any man out on ticket of leave of having been prevented from earning his living honestly by the interference of the police; I have the returns here, with the names, but perhaps I had better not state the names.

3381. *Chairman.*] Will you just state again what the nature of that table is which you hold in your hand?—The direction was to this effect, for the superintendents to report all cases of ticket-of-leave men living within their respective divisions, and specifying those whom they knew to be living by honest means, and those who they believed were not living by honest means.

3382. And those are the returns which were furnished to you?—These are the returns made in January last; I had, from time to time, repeatedly spoken to the superintendents about the conduct of those out on ticket of leave. I found that they all had an opinion that a number of ticket-of-leave men were immediately or indirectly concerned in the commission of crime; and this is the return which I asked for.

3383. Will you have the goodness to hand it in?—(*The Witness delivered in the same.*)—There is one case in that return which I mention for this particular reason, that the party was not convicted; but I do not think it a hard judgment upon him to believe that he was guilty; at all events, the case was a very suspicious one against him; it was a case which made a good deal of noise at the time; it was a case of murder in Kent by a man who had been tried. He had been convicted of burglary upon the evidence of an old woman living in the village, and this old woman was the person who was murdered. The evidence was altogether circumstantial, but he was committed for trial; the trial occupied a considerable time; he was certainly finally acquitted of the murder, but I may state that the belief of the police engaged in the case was that he was guilty; at all events he was afterwards committed in Gloucestershire for a burglary; he was committed almost immediately after he was acquitted of the murder for that burglary, and for that he was tried at the last spring assizes for Gloucester, and transported for life.

*Vide* Appendix.

3384. You said that the licences were not revoked except in the case of some subsequent conviction; would a conviction for any indictable offence have that effect?—I am not quite able to answer that question. The course, so far as I am concerned, has been to report to the Secretary of State each case. I am not very sure of the fact, but I believe that whenever a conviction has taken place the licence has been revoked.

3385. I believe that is one of the conditions endorsed on the licence?—The Secretary of State has the power, of course.

Sir *R. Mayne*, K.C.B.

19 June 1856.

3386. Sir *John Pakington.*] Practically, the condition is not limited to an indictable offence, but it may be upon a summary conviction?—It may be for anything.

3387. I only wanted to know what was practically done; it might be without a conviction?—Yes; practically, I believe, it is on conviction; I am not sure whether upon summary conviction. I may observe that there were several cases of suspicion against parties reported to the Secretary of State under the circumstances which I mention, in which the licences were not revoked. The cases arose in this way: one of the magistrates at Bow-street, addressing an inspector of police, who, according to the newspaper reports, said that there were a great many persons out on ticket of leave in the neighbourhood of the court. The Secretary of State called for a report with reference to that, and I sent him a report of each case, stating that the police could not prove the parties to have committed crime, but that we had reason to believe they were living by the commission of crime; and the Secretary of State thought, no doubt quite rightly, that they were not cases in which he ought to revoke the licences. I mention this as showing cases reported by the police, in which, from the circumstances, it would appear that the parties were living by criminal means, and yet, there not being a conviction, the Secretary of State did not think the cases fit for the revocation of the licences.

3388. *Chairman.*] You said just now, that, upon the whole, you thought that the Act had not worked well; are you of opinion that the system of ticket of leave is itself a wise one in principle, or would you have the sentence served out without a remission such as that?—My opinion is, that the system of a ticket of leave, as far as it releases persons, keeping them under the power of subsequent punishment by a revocation of the licence, is a good one; but my objection has been to the other parts of the present system of releasing men in this country after short periods of imprisonment; that it is which I think increases the risks to person and property in this country.

3389. The shortness of the period of imprisonment is a point which you look upon as a material consideration?—For one important reason; it releases the parties so much sooner; it gives them so much earlier an opportunity of returning to the commission of crime. Supposing a man convicted of a serious crime is sentenced to seven years' transportation, or any other punishment for that period; if he is kept in confinement for seven years he cannot commit crime during that time, whereas if he is released at the end of two years he may commit crime at the end of two years instead of seven; he may be again convicted, and at the end of two years' more he may begin again; so that I do think that the police difficulties, and therefore the difficulties of protecting property, are very much increased by the return of criminals upon society, and especially of expert and skilful criminals, after short periods of imprisonment. There are also, I think, cases in which persons out on ticket of leave, who are not convicted, are yet instigators of crime, though it has not been proved in a court of justice; still I believe that the police have good reason to state that the parties are committing crime. There is a case which I think, in some degree, bears upon it, at present in the hands of the police; the case of a very bad burglary, such as, I think, a few years' ago we rarely had; it occurred at Stamford Hill, in Middlesex. An old lady was tied in her bed, and her servant tied down stairs, and whatever was in the house was carried off. The police said that they thought there had been very skilful hands concerned in in it. That case occurred on the 26th of April. Within about 10 days a warder of one of the hulks at Portsmouth and two other parties were arrested by the police, the warder charged with receiving the stolen property, the two other parties with being concerned in the commission of the crime. The offence of the warder was, that he received a watch which was proved to have been stolen when the burglary was committed, and also other property, from two ticket-of-leave men, who had been very shortly before released from confinement in the hulks. They had been released on the 30th of March. They came to town immediately, lived at a very disreputable place in the Borough, and they are believed to have been concerned in the commission of this burglary so very soon after. One of the ticket-of-leave men lodged with the warder up to the time that the police went down to apprehend the warder. He has since disappeared, and we have not yet been able to capture him. The case

is

is still before the magistrates, so far as the charge against the warder goes; but there is very strong reason to believe (in fact, the warder states) that he receivd the watch from one of the ticket-of-leave convicts; and there is very strong evidence to be brought against both those men when they can be caught.

3390. You have expressed an opinion that the principle of ticket of leave is not one to which in itself you object, but you think that the shortness of the term of imprisonment creates a considerable difficulty at present. Would you recommend, then, that if a system of ticket of leave should be continued, the periods of imprisonment should be lengthened?—I think so, but the most desirable termination of a sentence, I think, is transportation.

3391. Suppose we cannot get back to that, we must then make the best of the circumstances in which we are placed; assuming that for the moment, without expressing any opinion either way, the Committee are desirous of having your opinion as to any improvements which can be suggested in the system; one improvement, as I understand, which you would suggest, would be that in that case the periods of imprisonment should be made longer than they are?—I should think so; as in many cases the periods of imprisonment have been too short; 18 months and two years.

3392. I am speaking of penal servitude?—I am not speaking of penal servitude; I am speaking of those who are under sentence of transportation I believe none have been released who have been sentenced to penal servitude.

3393. I am afraid I have expressed myself inaccurately. If you cannot get back to transportation you must retain penal servitude?—Yes.

3394. Are you of opinion that the terms of penal servitude, provided by this Act, might be advantageously lengthened for the purpose of obviating the objection which you mention?—As far as I am able to form an opinion I think they might; they are too short now; I believe that practically short periods lose the deterring effect; that is one evil; and then there is the other unquestioned evil of the prisoners returning so much earlier upon society, giving the parties the possibility of committing crime if they are disposed after so much shorter an imprisonment.

3395. We have been told that at present a ticket of leave is not generally intended to be given to a person who is suffering under penal servitude?—I understand that it has not been exercised at all at present.

3396. What would be your opinion upon that point. Would you think it advisable that a ticket of leave should be given to a prisoner under sentence of penal servitude, as well as to one under sentence of transportation?—It seems to be considered necessary (and I can well believe it is so) to hold out some hope to the persons who are suffering imprisonment as an inducement to good conduct, giving some expectation of advantage if they conduct themselves well.

3397. You would agree with that as a general principle?—I think so; that I should say is a sound principle.

3398. Bearing that in mind, and that consequently you ought to make provision for some remission at the end of the period, would that strengthen your opinion that the terms of penal servitude prescribed in the Act might be advantageously lengthened?—I believe so. Of course it is only a speculative opinion, but my impression is, that they are now too short; that they fail in striking terror at the time of conviction, and also that the practical result is bad in releasing after such a very short period very experienced criminals. With respect to the men who appear to be good in gaol, the best judgment of course can be formed of them when they return into temptation, and relapse into crime. The Committee will perhaps allow me to state that I have before me a table giving the number of persons who have been recognised as having been in custody for felony more than once during the last seven years.

3399. Have you satisfied yourself of the accuracy of that information?—Yes; these are the criminal tables printed every year.

3400. Have those returns been laid before Parliament?—I believe not; they are sent to the Secretary of State; in fact, I know they have not. This table is

Sir *R. Mayne*, K.C.B.

19 June 1856.

meant to show that there are a certain number who return to crime on their release from prison. (*The Witness delivered in the same.*)*

3401. You spoke just now of some of these persons, who had come particularly under the notice of the police for the worst crimes, being persons who had come from the hulks?—I mentioned only one particular case.

3402. Have you reason to believe that many of the cases which have made the greatest impression on the public mind of persons who have said to be ticket-of-leave men have been those who have come from the hulks?—I can only speak from mere hearsay. The general impression is, that the system on board the hulks is very inferior to what it is in the large convict prisons.

3403. Then your information probably would lead you to that conclusion?—I think that is the universal impression of it.

3404. And you think that it is a wise thing to do what we are told they are in process of doing, namely, abandoning the hulk system altogether?—I believe so, as far as my information goes, from what I have heard.

3405. Is there any further information which you can give us which you think would be useful to us as regards the subject of our inquiry?—I own I should be very glad to see transportation restored; imprisonment and hard labour, closing with transportation, seems to me to be the best system of punishment.

3406. Sir *John Pakington.*] Has the practice been, since the adoption of the ticket-of-leave experiment, that all persons released under ticket of leave, and coming to London, have been notified to your office?—No.

3407. Do you mean, that it has not been the practice for any information to be sent to your office of ticket-of-leave men coming to London?—None whatever

3408. Do you think it would be an improvement in the system that you should have information of all ticket-of-leave men sent to London?—Unquestionably, as far as police observation is concerned.

3409. I mean with a view to enable your officers not at all to depart from the very excellent instructions which you have this day mentioned to us, but to enable them to know which are the characters over whom they ought especially to exercise some surveillance?—I think it would be an improvement. In a great many cases the police have considerable difficulty in finding out whether the parties are ticket-of-leave men.

3410. From the information which you have now given, I apprehend it is entirely accidental whether your police know a man to be a ticket-of-leave man or not?—Altogether so; and even with the information which is now suggested the result of the restriction which is put upon the observation of the police would be, that they were not to trace out the ticket-of-leave men.

3411. I apprehend that you quite agree with me in opinion, that the strictest attention to those instructions is compatible with full information being given to your office in every case?—Undoubtedly.

3412. Mr. *Monckton Milnes.*] Are you of opinion that these instructions, of which you have put in a copy, have been generally carried out?—I am fully persuaded that they have, not only from the general confidence which I have that a police order is obeyed, but I have not had complaints of a departure from those instructions; I have seen statements in the newspapers, but I have not had any cases verified before me in which the police have acted contrary to, or differently from, the spirit of those instructions.

3413. *Chairman.*] You would censure them in such a case if it came under your notice?—Unquestionably; it is a serious offence in itself, if any man disobeys an order which is given.

3414. Mr. *Monckton Milnes.*] Your object seems to be, in these instructions, to require that the police should exercise a certain surveillance over a man with a ticket-of-leave, without at the same time at all interfering with him; is it not very difficult to combine those two objects?—I do not remember anything in that order directing surveillance over ticket-of-leave men, it was rather to prevent the police proceeding as of ordinary practice in other cases of convicted criminals. Convicted thieves are under the observation of the police when they come out again, the men know them, and they keep observation upon them; but that order was intended to restrain what would have been the practice otherwise, to restrain them from acting in accordance with that practice with regard to ticket-of-leave men.

3415. This

* *Vide* Appendix.

3415. This order says nothing about exercising surveillance, but is it not the meaning of the whole notion of ticket of leave that those men are to be under some surveillance on the part of the police?—No, I think not; I have had no instructions to that effect, and I thought that the intention was rather that they should be absorbed into society, and not made special objects of observation; it is an experiment to try whether that cannot be done.

3416. Do you consider that there is a real practical distinction between the effect of a ticket of leave and of a free remission?—A ticket of leave was generally supposed to be given to men who had proved that they had merit, either that they were reformed, or were likely to become so if so much of their sentence was remitted. A man might serve out his full sentence and be known to come out as bad, and perhaps worse, but at all events, as bad as when he was convicted; the latter class would be under the immediate observation of the police in various ways.

3417. As far then as the freedom of the convicted person was concerned, you consider that a ticket-of-leave placed him almost in a better position than that of a person who had served out his sentence?—Certainly.

3418. Then you regard a ticket-of-leave as being practically a remission of the sentence with a recognition of good conduct on the part of the prisoner?—I consider it so, and also that it was intended by the Legislature and by the Secretary of State to make the experiment with these men of giving them full opportunity of returning to honest courses, and that any interference with them by the police might have prevented that being done. That was my principal object in giving that order.

3419. In that case, where would be the distinction between a ticket-of-leave and a remission of sentence, with a certificate of good character?—In that respect I should not make any difference, excepting that those released with certificate of good character were not known to me as a class.

3420. Where would be the difference between the present system of ticket of leave and a free remission of sentence, with a certificate of good character?—I think they would be the same. In each case they are men who have been convicted, and who, from good conduct, or from some favourable circumstances, are supposed to be entitled to a remission of part of the original sentence. The police have no knowledge of the cases of those men. We do not know under what circumstances the men, with remission of sentence, are released from prison; the ticket-of-leave men we might know.

3421. Lord *Naas.*] Do the police exercise any particular supervision over persons who have been convicted, and whose sentences have either been remitted, or who are at large in consequence of the expiry of the sentences?—Yes. On public occasions, convicted thieves are not allowed to mix in the crowd; they are not allowed to go to public assemblages; they are not allowed by law to remain in public-houses, or places of what is called public resort.

3422. Are those rules laid down by the police authorities?—It is partly the law, and partly also the rule; it is altogether founded upon the law. For instance, in the Police Law, 2 & 3 Vict., c. 47, it is expressly prohibited that thieves or prostitutes should assemble or congregate in public-houses, or places of public resort.

3423. Is the conduct of the police, with regard to ticket-of-leave men, and with regard to those persons to whom I have alluded, perfectly different?—Unquestionably different. In that memorandum it is stated that they should not point out ticket-of-leave men to the landlords of public-houses, whereas, if they were convicted thieves, under the general term, they would be pointed out, and turned out of the public-houses. These are returns which I have every month of the visits of the police; the heading is, "Public-houses, beershops, and coffee-shops in the above division, where thieves and suspected persons resort, which have been visited by the police during the month." It is the practice of the police to go every night into public-houses, and if they see thieves or suspected persons there, they point them out to the landlord; if the landlord refuses to interfere with them; if, in short, he in the terms of the law harbours them, the landlord is summoned, and many convictions have taken place for harbouring; if, on the other hand, as he generally does, he turns them out, no further notice is taken.

3424. Do the police exercise that power with regard to men who are out in

Sir *R. Mayne*, K.C.B.

19 June 1856.

consequence of their sentence having expired without any positive knowledge that they are embarked in evil courses?—That is to a certain degree discretionary. If they were believed to be living by honest means they are, as a general rule, not noticed; still the words of the law are "thieves and suspected persons;" it is not convicted thieves, but persons who are supposed to be then living by thieving, and, of course, the fact of their having been convicted, and not being known to have any honest mode of living, is a circumstance calculated to make the police believe that they are living by thieving.

3425. Still I conclude, that if a ticket-of-leave man was known to be living by bad practices, and associating with these characters, he would be subject to the same surveillance as other bad characters?—The general directions are not to interfere with him. In one case, reported by me, I remember the Secretary of State directed that the man should be cautioned that attention had been called to him.

3426. Has that been done?—It has been done.

3427. Frequently?—I think not frequently; but I remember one case lately, where the Secretary of State said that he thought the circumstances were not sufficient to revoke the licence, but he desired a communication to be made to the man that his conduct had been noticed, and that observation was to be kept upon him.

3428. Mr. *Monckton Milnes.*] Do you suppose that in case the police interfered with any person, imagining him to be a suspicious person, the fact of his having a ticket of leave would be any protection to him?—No; no such case has occurred.

3429. It has been given in evidence that the greater part of the persons who receive these tickets of leave destroy them; is that the case?—I believe so.

3430. It therefore appears that the men themselves, at least, do not consider that the tickets of leave confer upon them any of these advantages which your evidence would rather incline us to think that they did?—It is so far an advantage that they are certainly not kept under the same observation by the police as the other convicted thieves are. I am speaking of a certain district only; but I take it that the principal object of their destroying their licences is, that it shall not be known that they have been convicted.

3431. Do you know that it is the habit of several countries to place persons after conviction, for a certain time directly under the surveillance of the police, it being recognised that they are in that position?—I am aware that it is so.

3432. Do you think that it would be advantageous to adopt anything of that kind in this country?—I do not think that it would be practicable here. That is always followed up, as far as I know (I have inquired a little into its operation in France) by requiring the parties to appear and report themselves occasionally. I think that that would be inconsistent with our habits here, and offensive. It is likewise followed up by what I think could be hardly tolerated here, namely, by directions that they shall live in particular places. It would be very difficult to carry that out, and I think it would be repugnant to our feelings.

3433. Do you think that nothing of that kind could be carried out as a part of the remission of sentence?—I think it would be extremely difficult; it would require a very good police.

3434. Lord *Naas.*] You would require something of a passport system for that, would you not?—It would be necessary to have some general mode of ascertaining where the parties were; with the facilities for moving in this country, it would be very difficult.

3435. Mr. *Adderley.*] Does that Act to which you referred, which gives such power to the police, only apply to the metropolis?—Only to the police district. I believe that somewhat similar, or nearly the same provisions, are now adopted in several Acts relating to towns.

3436. Have the police power to hunt out all convicted criminals in that way?—The words of the Act are something to this effect: that publicans and keepers of houses of public resort are subject to penalties if they harbour thieves or prostitutes; so that the way in which the police operates is this: they go into the house, and if there are persons whom they know, or believe to be thieves or suspected persons, they point them out to the landlord.

3437. Practically in the application of that Act, are all criminals who have been convicted of any crimes considered to come under that category?—No; first

first of all, it is only put in force at late hours of the night. The visits are made at late hours of the night, and then the police point out the parties. If there are two or three, or one or two, they take no notice of them; but if there are many, they point them out to the landlord, and then the landlord takes upon himself the responsibility, if he thinks fit, of saying that they may stay there; he may then be summoned, and it is for a magistrate to convict him. If, on the other hand, he turns them out, he does it on his own responsibility likewise.

3438. But the men so marked, are not all men who are convicted of crime; but those who are supposed after the completion of a penal sentence to be still living in a disreputable manner?—Not only disreputable, but thieves and suspected persons; and the words are, I think, "prostitutes of notoriously bad character" likewise.

3439. Therefore it is not any previous conviction, but a suspicion of a present state of criminal life, which is the test of their being subjects for such surveillance?—Certainly.

3440. When you state that convicted criminals are so watched, you would not think that the mere fact of a man having been convicted of a crime, and having completed his sentence, would subject him to such surveillance?—No; having been convicted is a circumstance only.

3441. Then you do not suppose that any such surveillance as that which you have alluded to, prevents any class from getting employment who might otherwise obtain it?—Cases of this kind have occurred; persons who have been convicted, and are believed still to be criminal, have obtained situations, and the person employing them has been told the fact; in some cases he has continued them, and in some cases he has said, "I was not aware of that," and has dismissed them.

3442. With regard to the number of men with licences to whom you have referred, they are all men who were under sentence under previous Acts, before the Act of 1853?—Yes, they were; those who had been sentenced to transportation, I believe; it only applies to those.

3443. Would not several of those men have returned to this country, even without being licensed by the law?—If they were transported; in fact, practically, those who were transported very seldom returned to this country.

3444. But practically, many of them would never have left this country, although sentenced to transportation?—Yes; then the only difference is, that they are so much sooner released now. If they serve out their full time, of course they are so much longer kept from doing mischief; if they are released at the end of three years, or four years, they may commit crime sooner if they please.

3445. Do you suppose that if this licence under the Act of 1853 is continued to be made use of, it will become applicable to a similar class, under the Act of 1853, as the class to which it has been already applied?—Yes, that is the intention I believe; that the same system as applied in cases of ticket of leave, which might now be acted upon, but which has not been, shall be hereafter applied to persons sentenced to penal servitude.

3446. And that class would be similar to the class who were under sentence of transportation before the passing of the Act?—Just so, with this difference, however, that the period of penal servitude is shorter; it is four years, I believe, instead of seven, and so on.

3447. In your approval of transportation, you have stated two reasons only for your approbation, namely, the relief to this country, and the reformatory influence on the criminals?—I believe I mentioned the terror also.

3448. Your approbation is wholly irrespective of any effect which it may have upon the colonies who are so used by this country?—To some places I think it would be a great benefit; for instance, Western Australia would be very glad to have convicts.

3449. As far as the mischief of criminals returning upon this country is concerned, have you no other means to meet that difficulty but transportation; has nothing occurred to you by which such criminals at the conclusion of their sentence might have an easier mode of getting an honest livelihood in this country without being transported?—No other means occur to me. The great difficulty, I think, with regard to criminals reforming here is, in obtaining employment; I think the last two years have been very favourable for the trial of the system; owing to the war, there has been a peculiar demand for hands

Sir *R. Mayne*, K.C.B.

19 June 1856.

of all kinds; the means of obtaining employment, I think, have been peculiarly great during the last two years; therefore I think many who might have been driven to criminal courses from the want of any honest mode of employment, have got into employment, where they have behaved honestly.

3450. Do not those circumstances suggest to your mind the possibility of greater facilities being permanently provided for discharged prisoners getting into employment?—I am not aware how that could be done in a country where the competition for employment is so great.

3451. Are you at all aware of the influence of the refuges which already exist in London, as regards affording such employment to discharged convicts?—I was aware of one, and, indeed, of more than one. The effects were very good, but limited; and they must necessarily be limited, I think.

3452. Why must they necessarily be limited?—Because the favourable result must, I believe, be effected, as in the society which I have particularly in my mind, by sending the men out of the country.

3453. Will you mention the name of that institution?—The one in Smith-street, Westminster. The men were very usefully taught some trade or employment, and were assisted to go to some place, principally the United States of America and Canada; and I believe it was the means of reforming many criminals, and enabling them to live by honest courses afterwards.

3454. As far, then, as that society worked, it provided the remedy for which, in your mind, transportation is so much needed?—It did; but I think it was necessarily very limited.

3455. Supposing that system were much more extensive, would it, in your mind, do away with the necessity of transportation?—It certainly would remove the objection, from the great difficulty of obtaining employment in this country.

3456. That is the main objection?—It is one of the principal objections.

3457. Do you see any reason for supposing that that mode of getting discharged criminals abroad might be more advantageous than a penal system of transportation?—I do not think it could be applied extensively.

3458. Supposing it could be applied extensively, do you think that the enabling criminals, wholly discharged from punishment, to get abroad by means of benevolent institutions, is preferable to their going abroad through the action of the Government, and still under penal sentence?—I think it might be, and perhaps it would be; but I have always looked upon those modes, however excellent and however creditable to the individuals, as necessarily very limited in their operations.

3459. Mr. *Ker Seymer.*] I find these words endorsed on the ticket of leave, "The power of revoking or altering the licence of a convict will most certainly be exercised in case of his misconduct." "To produce a forfeiture of the licence it is by no means necessary that the holder should be convicted of any new offence. If he associates with notoriously bad characters, leads an idle and dissolute life, or has no visible means of obtaining an honest livelihood, &c., it will be assumed that he is about to relapse into crime, and he will be at once apprehended and recommitted to prison, under his original sentence." Is that latter part ever carried out?—I am not able to answer that question; that should be better known to the authorities at the Home Office; but as far as I know, my belief is that it is not carried out.

3460. Do you report persons answering to this description to the Home Secretary?—I have reported some.

3461. You do not make it your business to report all persons who answer to the endorsement upon the back of the ticket of leave to the Home Secretary?—No, I have not done so. I do not think I ever saw a ticket of leave, and I never had, officially, an exact notice of what the words were.

3462. Then you have had no instructions upon the subject?—No.

3463. These being the terms on which these men are at large, do you not think it would be a great check upon their misconduct if they knew that the conditions of the ticket of leave would be enforced?—I think it would.

3464. Mr. *Massey.*] Would not that involve a great deal of surveillance on the part of the police, which it is most desirable to avoid?—That is a difficulty of another kind; it would.

3465. Mr. *Ker Seymer.*] Supposing it is better not to enforce that condition, would it not be better to erase it from the back of the ticket of leave?—I did not know that that endorsement was on the ticket of leave.

3466. Supposing

3466. Supposing the endorsement says that it certainly will be enforced, and it is not enforced, do you not think that that must have a bad effect upon the holder of the ticket of leave?—I think it objectionable. Sir *R. Mayne*, K.C.B. 19 June 1856.

3467. Mr. *John Wynne.*] If you had been aware of the endorsement on the back of the ticket of leave, do you think you would have modified your instruction to the police?—No, I think not essentially; because still the police would have the means of noticing that state of things which must necessarily be public. There are several ticket-of-leave men who are continually under the eye of the police in the streets as associating with prostitutes and bad characters.

3468. Lord *Naas.*] As the conditions on the back of the ticket of leave cannot be carried out with surveillance, and as you have prohibited surveillance, the conditions remain a dead letter?—Certainly, that part of it I think does so, as far as I know; I am not quite acquainted with what may be done by the Secretary of State; but as far as my knowledge goes, that part is not enforced. I think those conditions are not acted upon.

3469. Mr. *Ker Seymer.*] Having read the ticket of leave, you now state that those conditions are not generally acted upon?—According to my belief, they are not.

3470. Mr. *Deedes.*] But I apprehend that that ticket of leave is intended simply for the information of the man to whom it is given?—Yes; but what I mean is, that supposing it is stated of any ticket-of-leave man that he is associating with notoriously bad characters, or has no visible means of obtaining an honest livelihood; if that is the strongest thing against him, I do not believe it is the practice of the Secretary of State to revoke the licence in such a case.

Mr. *Henry Mayhew*, called in; and Examined.

3471. Mr. *Monckton Milnes.*] WHAT is your occupation?—I am an author. Mr. *H. Mayhew*. 19 June 1856.

3472. Have you given much attention to the question of crime and criminals, especially as bearing upon the subject of the inquiry of this Committee, namely, secondary punishment?—Yes. I have held one or two meetings in connexion with the subject, and I have been attending to the subject, directly and indirectly, for the last six or seven years. I have attended to it not only by association with the criminals themselves, but also by employing persons in collecting information and making general statistics for me. I have generally two clerks continually engaged upon that subject. I have also in visiting the prisons.

3473. Did anything lead you especially to take an interest in that subject?—Nothing more than it being part of my business so to do; it is part of my profession. I am devoting myself to an inquiry among the lower orders of people generally, and I have taken such steps as I believe to be necessary for studying their characters, and their habits and dispositions, simply, so to speak, in a scientific point of view.

3474. Have you come to any conclusions upon the subject which you could lay before the Committee with confidence?—The conclusion which I come to first is, that the amount of crime with regard to the population remains positively stationary. I have drawn up some tables with regard to the population. For the last 20 years I have a table calculated from the returns of the criminal offenders, and also from the census of 1851. I find that the ratio of criminals to every 10,000 of the people was, in the year 1834, 15·5; it was 14·1 in the next year; then 14·0; 15·6; 15·1; 15·7; 17·2; 17·4; 19·3; 18·1; making an annual mean for those 10 years of 16·1 in every 10,000 of the people. In the next 10 years we have 16·0; 14·4; 14·7; 15·8; 17·4; 15·8; 15·1; 15·5; 15·1; 14·7; giving an annual mean for those 10 years of 15·5.

3475. Sir *John Pakington.*] Which 10 years are those?—From 1844 to 1853, which give us the last returns as published; and the previous 10 years are from 1834 to 1843.

3476. Mr. *Monckton Milnes.*] Are those all convictions?—Yes, all convicted offenders.

3477. Including summary convictions?—No; merely the tables given in Mr. Redgrave's Returns; there we find a very slight fluctuation; but in order to test it, some persons may say that new offenders have come in, and therefore I thought it necessary to make a calculation as regards the number of recommittals

Mr. *H. Mayhew.*

19 June 1856.

to the number committed. I find that for 10 years, from 1841 to 1851, the ratio was as follows, of the number of criminals recommitted in every 100 committed, 31·3; 29·9; 30·5; 32·4; 33·4; 32·8; 31·3; 29·9; 30·7; 32; making an annual mean for those 10 years, of 31·3; so that out of the number committed you generally have one-third who are recommitted. We find that the annual mean in 1850 of the recommitals, was very nearly the same as it was in 1841; so that you land at this conclusion, that whatever system you have been as yet pursuing, you have made no impression upon the number of criminals in the country.

3478. Do you draw any particular distinction between the classes of criminals?—Yes; I draw very wide distinctions.

3479. Have you drawn any distinction between the classes of criminals in the tables which you have laid before us?—Not in those; that is merely an abstract result, dealing with crime as if it were one thing. But I think for the proper understanding (I speak with all deference) of the criminal question, it is necessary, in the first place, to begin with the broad division of habitual and casual offenders; I believe without that distinction being made it is impossible to understand the question.

3480. Have you attempted to systematize that distinction?—I have.

3481. In what way?—I have studied the Government tables, and from those tables I have drawn out certain others in which I have arranged the offences, which I know are pursued as a means of livelihood among criminals, and I have distinguished those from such offences as are pursued by others who cannot make a trade, so to speak, of crime. The misfortune is, that by the present Government Returns they allow us to come to no conclusion whatever upon the subject. We have the whole legal division of crime (perhaps it is necessary we should have it) into offences against the person in the first place, in which the very diverse offences are included of murder, rape, bigamy, attempts to procure miscarriage, and common assaults; that is the first head. The second head is called offences against property; then we have a subdivision of those. First, with violence, as burglary, robbery, piracy; and secondly, without violence, including cattle-stealing, larceny by servants, and so on; and there is a third subdivision of malicious offences. After that we have forgery, and after that we have other offences. Now, the statisticians of other countries, such as Monsieur Guerry, who I dare say is very well known to you, adopt another division of crime.

[The Witness was directed to withdraw.

The Witness was again called in.

3482. Sir *John Pakington.*] The Committee wish me to inform you that the immediate subject of inquiry referred to this Committee is a comparison between the effects of the late system of punishment of transportation and the new system of penal servitude, and also into the effects and probable future effects of the system of tickets of leave. Therefore, although we are quite sensible of the importance of the matter to which you are adverting, we shall be glad if you will come, as briefly and as concisely as you can, to evidence which will bear upon those subjects?—I will do so, but it was necessary that one should go through a certain degree of preliminary detail, in order to enforce the question of the division between the habitual and the casual offender, for upon that question, I believe, the whole matter hinges. I have arranged the criminals according as they are habitual offenders and casual offenders, and I have drawn out a very large table, from which I come to these conclusions as regards the increase and decrease of crimes among the habitual and the casual offenders.

3483. Mr. *Monckton Milnes.*] Will you give us the results of those tables?—The crimes in which there has been an increase among the casual crimes are those of ferocity and malice, such as arson cases, and destructive cases; the increase in ten millions is in the ratio of 21·3, and, in the destructive cases, 3·4. The habitual cases of ferocity and malice, such as burglary cases, highway robbery, smuggling with arms, and poaching under arms, are 22·6, 54·8, 1·56, 13·4, 87·3. This is a comparison of the tables from 1844 to 1848, and then from 1849 to 1853, two periods of five years.

3484. Sir *John Pakington.*] The figures you have just given us are the increase in the latter period as compared with the former?—Yes, upon the ratio of

of 10,000,000. Then, in the third class of crimes, of what I call habitual cupidity and temptation, such as the receiving of stolen goods, there is an increase of 60·7. In forgery cases there is an increase of 6·2; in coining cases there is an increase of 123·7.

3485. Are these statements of increase positive statements, or are they statements having reference to the difference of population?—They are relative statements, always with reference to the population. I take always a definite number of the population, and draw the ratio from that. This ratio is drawn from 10,000,000 of the population, so as to increase it, and avoid merely decimal figures. The other habitual crimes are such as evil speaking, and threatening cases, and perjury cases. I come to this conclusion, that upon the crimes of evil speaking altogether it was 44·1 in 10,000,000. Then the decrease of crimes among the casual cases of ferocity, such as murder, was 7·8; in homicide and assault there was a decrease of 209·6; in piracy, a decrease of 3·98; in escapes from custody a decrease of ·5; in breach of trust cases there was a decrease of 1·1; in cattle-stealing and similar cases there was a decrease of 45.

3486. Mr. *Monckton Milnes.*] On the whole, what are the decrease and increase of habitual and casual crimes, respectively, as far as you can ascertain them?—There is an increase in the ratio of 13·2 upon the casual crimes, and there is a decrease upon the habitual crimes of 461.

3487. Sir *John Pakington.*] In the latter period?—In the latter period. Here are the tables, which are fully drawn out.

3488. Mr. *Monckton Milnes.*] Have you found that distinction, to which you attach so much importance, between casual and habitual crime, borne out by your observation of the criminal class?—Most certainly; the habitual criminal is a totally distinct man, and indeed in all prisons he is spoken of as a totally distinct man from the casual criminal.

3489. Can you give us any illustration of that distinction?—The habitual criminal I believe to be a person who has a direct aversion to earn his own livelihood; such men as I know are mostly marked by a directly vagabond spirit; an incapability to attend to any one particular subject or to pursue any one occupation.

3490. Sir *John Pakington.*] To what extent do you call it incapability?—I speak relatively; that is, that they will avoid it if they possibly can.

3491. By "incapability" you mean disinclination?—Yes, an indisposition to it; the incapability of attention is very strongly marked indeed or the indisposition to attention, both mentally and physically.

3492. Mr. *Monckton Milnes.*] Has it been brought under your attention how this ticket-of-leave system has acted upon those two classes respectively; first, on the habitual offender?—I should think it rather dangerous to entrust a habitual offender with a ticket of leave, and I think it might be possible, by the aid of well considered statistics, to draw up certain scales as to the liability of a man to relapse into his former courses. Speaking relatively from those scales, I think one might assert that 95 per cent. of first offence men might be safely entrusted with a ticket of leave, especially if of a particular age, which does not come within the criminal age, so to speak. We find, upon referring to the criminal tables, that the large proportion; not relatively with the population, but the large proportion of the criminals, are from 15 to 25 years old; I think they exceed the proportion given in the census by somewhere about 20 per cent. It would therefore be dangerous, I believe, to entrust a person of that age with a ticket of leave; I mean if likely to be a criminal, or exhibiting criminal tendencies. But a first offence man, I believe, might be very safely entrusted with it. In fact, I myself have continual applications for work from ticket-of-leave men. Scarcely a day passes but I see some three or four of them; they come to me. I have also some ticket-of-leave men now, for whom I have provided situations, who are living a very honest and industrious life.

3493. What is the light in which you yourself regard a ticket of leave?—I regard it as a very successful experiment.

3494. What do you take to be the meaning of a ticket of leave?—A conditional pardon of a man's sentence, or a remission of his sentence.

3495. Do you regard it in the same light as an absolute remission?—No, a conditional remission; conditional upon certain good conduct.

3496. Do you regard it as an advantage to the criminal, so that the criminal obtaining a ticket of leave is in a better position than if he had fulfilled his sentence?

Mr. *H. Mayhew.*

19 June 1856.

sentence?—I cannot exactly say that. I am not prepared to say that the man is in a better position.

3497. Do you know how the ticket of leave is appreciated by the majority of the criminal class who have received it?—Generally, they think it a very great boon to them.

3498. Do they think it a boon in itself, or a boon as compared with an absolute remission of their sentence?—They look upon it, I believe, as a reward for good conduct, so far as I hear.

3499. It has been given in evidence that the persons who receive these tickets of leave almost always destroy them as soon as they have received them; how is that compatible with regarding it as a reward?—Because they do not like to have them found upon them if taken by the police; that is the simple reason.

3500. Mr. *Adderley.*] Why?—Because if they are seized by the police, and they are known as ticket-of-leave men, their pardons are immediately revoked. They might have a very short imprisonment for the offence that they were charged with, but in the other case they would go back and serve their whole time; therefore, I believe in the majority of cases they destroy them as soon as they receive them, simply for that reason, so far as I can learn.

3501. Mr. *Monckton Milnes.*] Do you believe that the police generally disapprove of the system?—Certainly, so far as I have spoken with the police.

3502. Why?—I wish you to understand that I am speaking now merely from my own conjectures, and not from any proof whatever; but as I find the warders of prisons and the governors of prisons generally in favour of the ticket-of-leave system, I find the police generally adverse to the system; and reasoning with myself, and making certain general inquiries upon the subject, I find that it entails a greater amount of difficulty and a greater amount of trouble upon the police. Then the police know very little, so to speak, of the homes and inward feelings of the criminals, and generally speaking have but little consideration for them.

3503. Do the criminal population themselves draw a distinction between a man who has received a ticket of leave and a man who has worked out his sentence?—No; I do not think so at all.

3504. Wherein do you think is the advantage of the system of a ticket of leave over that of a remission of sentence, followed by a certificate of good conduct, in consequence of good conduct?—When a man has worked out his sentence, he has, so to speak, fulfilled everything which is required of him in society; he is not acting, as it were, or living under a state of probation. In the other, he knows, that so long as he holds his ticket of leave, if he relapses into his former conduct, he then goes back to prison. When he has fulfilled his sentence, he knows that he can only be tried for the offence which he commits. Therefore, under the present system of a ticket of leave, it acts as a bonus to a man, and as a stimulus to a man to future good conduct. The least thing, I am told, even loitering about the streets, which I believe is a charge, would subject him to being returned to prison. The men themselves tell me so: that they are sometimes charged with loitering about the streets; and that they could have their licence revoked if even found associating with criminals. Therefore many of them are very anxious to avoid their former associates, and hence, I believe, it acts with the greatest possible benefit. I myself, at the time when I was making an inquiry as to the tickets of leave, sent a gentleman, my clerk, who is in the room, round to the different haunts of the men. He visited by my instructions, and saw some 300 of the people, and his statement to me was, that he found the great majority of them engaged in certain street pursuits; generally selling certain things.

3505. Sir *John Pakington.*] How did he know who were ticket-of-leave men?—Simply from inquiry; he did not see the ticket of leave; but there is a certain kind of freemasonry with the men. Although I have had them in my house, which I dare say you can understand, they have never taken a sixpence from me. I never lost a sixpence by the most desperate criminals, and I never knew a man tell me an untruth.

3506. Mr. *Monckton Milnes.*] How do you know these men to be ticket-of-leave men, and not criminals who have worked out the whole of their sentence?—They tell you so very frankly. I have a bundle of letters here; these letters are entirely from ticket-of-leave men, asking me to find them employment. Scarcely

a day

a day passes but I have some half-dozen at least; either I see them or I have communications from them.

3507. How far have you been successful in finding employment for ticket-of-leave men?—I have only one or two persons who are as yet bold enough to give them employment. Here is a letter which I received to-day. I asked a gentleman before I came down here to furnish me with a certificate as to how one man, who, I believe, has served his time in Australia, behaved; he is a man who tells me that he has seen more trouble than any other convict in London, and I believe he is generally known as such. He came to me, and asked me to find him employment; I said, "If you mean to give up your former life, I think I can put you in a position so to do;" he promised me that he would; I then got him a situation of 18*s.* a week, and this is the certificate which I have received. "I certify that I have for some months employed in the factory of a company in which I am a director, a ticket-of-leave man of the name of ——; that I have watched his conduct narrowly, and have received reports of him, from time to time, from the clerk of the works, and from all I have seen and heard of him, I believe him to be one of the most assiduous, attentive, industrious, and best conducted men in the establishment; he is never seen idling any amount of his time; his conduct confirms the opinion I have long entertained, that numbers of our liberated prisoners could be brought back to the paths of virtue and honest industry, if they could obtain remunerative employment on their discharge from prison."

3508. Do you think there is any difference in the mind of the employer with regard to a ticket-of-leave man and to a person who has worked out his sentence? No, I think not.

3509. Do you think it would be practicable to produce that impression?—It would be good to produce that impression.

3510. Would it be practicable to produce that impression?—Do you mean to allow the employer to understand that the ticket-of-leave man is a better class man, and more likely to conduct himself well than an ordinary prisoner?

3511. Yes.—Yes, I think it would be very practicable, and I think greatly for the advantage of society.

3512. But you do not think that that impression hitherto has been produced?—I do not. I think the public generally are in a measure loath to receive ticket-of-leave men; I have seen the mode in which a licence is granted to a man; I have seen it in peculiar ways, without any connexion with the authorities. When I have been at certain places, a letter has been sent to some friends of mine asking them whether they could provide employment for a man, and stating that if employment could be given to him then he would be entrusted with a licence, and not until then. With proper care, and proper supervision, and not granting the licences indiscriminately, or believing, as is generally believed, that there is but one kind of criminal, but drawing wide distinctions between the different classes of criminals, and also taking into consideration the number of committals, and hence the danger to society of a man relapsing into his former courses, I think it is one of the finest institutions which could be adopted.

3513. Therefore, we are to infer that you believe that with regard to the casual criminal, the ticket-of-leave system has acted well, and will continue to do so; but how far would you extend it to the habitual criminal?—I think it would be advisable to draw up a scale, so to speak, as regards the number of recommittals, believing that with each fresh committal a greater amount of danger comes to society; if a man has been recommitted twice, there is a greater chance of his going back to his former courses than if it was his first offence.

3514. Does not the recommittal of a person very often follow as an almost necessary consequence from his inability to obtain employment?—Yes, frequently.

3515. Therefore, a recommittal is not always a sign of an increased inclination to crime?—It may not be, but certainly the habitual criminal oftener appears in the convictions than the casual one.

3516. How do you regard the present system of penal servitude in comparison with transportation?—Transportation I think very valuable to old and confirmed offenders, people who are called vagabonds, and who have certain primitive notions of society upon them; I think it is for the good of society to get rid of such people, and to send them into a primitive country, where vagabond habits are consistent as it were with liberty. A little while ago a lad was at my house, and

Mr. *H. Mayhew.*

19 June 1856.

and I spoke to him as to sending him out to the back-woods of Australia, and he said that nothing would please him better if he could go; he was a young man of a strong vagabond disposition, who liked, for instance, shooting or ranging about in woods, and living an idle dissolute life.

3517. Do you think that transportation acts with much terror on the criminal classes?—I think rather the reverse, so far as I know. From associating with the men, and hearing their opinions, I find that many of them wish to be transported after they have undergone a certain course here, which seems to be about three years; that appears to be about the average existence of a criminal, so to speak, or it was so under the old transportation system. He then disappeared; he knew that he led a pleasant, merry, wild life for the time being, and he knew that a free life in another country was the end; but at the present time it appears to me that he seems to think more about returning, so far as I can judge; I may see a peculiar class; such men only may come to me.

3518. Sir *John Pakington.*] He thinks more about returning where?—More about returning at the honest.

3519. He is most desirous to do so?—Yes.

3520. To what do you attribute that?—I cannot say whether there is greater supervision on the part of the police, or whether he finds the life harder or not.

3521. Mr. *Monckton Milnes.*] Do you think that the increased attention paid to the possible reformation of criminals has had the effect of diminishing the terror of the law?—I do believe that there is a dangerous humanitarian notion abroad, which would strip punishment of what appears to me to be its great and main element, namely penance. Connected with punishment, I think there should be a strong penance for a past fault; and unless there be such penance, you hold out as it were a premium to a criminal by saying, "If you come into a prison, we will make you a better man, rather than simply making you a more sorrowful man, and causing you to see the errors of your past fault." I believe that may be very dangerous.

3522. Have you paid attention to the different modes of punishment in prisons?—I have, great attention.

3523. What is the result?—I find that what appears to me to be the main defect of the present system, lies in making labour a punishment; the criminal is a criminal especially because he belives that labour is a punishment; he looks upon it as a punishment, and he is naturally averse to it; and it appears to me that the great object should be, by introducing industrial training, to endeavour to make labour a pleasure to a man. From what I hear, or what I can believe, a criminal says to himself on leaving prison, "I, before I went into the prison, had an aversion to labour, and when I come out of it I am only confirmed in my aversion. I thought it unpleasant, and I believe it is now 10 times more so than I thought."

3524. Do you think it would be possible, by the establishment of a system of reformatory labour following upon penal servitude, to bring back the convict to a sense of the value of labour as distinct from penalty?—Yes, I believe highly so; I believe all that is highly practicable: I find now, for instance, at Pentonville, where the discipline is in a measure good, as inducing self-communion under the separate system, when not carried out to an extreme, that a man is put to nine months' apprenticeship as it were, to either tailoring, or shoemaking, or mat-making. The Pentonville institution was originally designed as a kind of training school for men for the colonies, but men in the colonies, directly they got to Australia, had no reason to pursue any one of these occupations. Had they trained them as agricultural labourers, or to pursue any occupation which was wanted in Australia, it would have been a good institution; but to make a man a tailor for nine months, and then to say, "You are not required to tailor any longer," appears to me to be somewhat approaching folly. Under the present system a man is sent to the hulks; immediately upon leaving Pentonville he goes to some public works; he then gives over his handicraft, or his apprenticeship, and he becomes a mere physical labourer, pursuing an occupation which is almost naturally repulsive to men. If men were trained to arts at the public works, so that all their labours were made really and truly valuable, and so that the men felt a pride in what they produced, and if they also were taught to pursue occupations which on their leaving prison would yield them high wages, I have not the least doubt that you would find one-half of the people reformed.

3525. Is it not very beneficial for the town thief to be habituated to hard and out-door

out-door work, such as he receives at the public works?—It is very difficult indeed.

3526. Is it not beneficial to him?—I doubt whether it is beneficial, because I know that if the habitual thief dislikes it he will give it up immediately he leaves; directly he leaves the place he relapses into an easier mode of obtaining his living.

3527. Am I to understand that you think that the best chance of reformation is giving the convict, during his imprisonment, such occupation as will enable him afterwards to earn a remunerative subsistence?—I do.

3528. Do you think it is practicable to do that without at the same time offering an apparent premium to crime?—Yes, I do think so, if you make your prison life at the same time a penance to a man; but not if you make your prison life as you now make it. Directly you put a man into prison you tell him, so to speak, tacitly it is true, but you imply to him that all the ordinary rules of life with respect to the whole of his class outside the prison cease. Inside the prison walls he gets his living, and a good living too, without any necessity to labour. Outside he is simply a criminal, because he objects to labour for his food; directly he comes into the prison you say, "Here is your food provided for you." Therefore, I believe you educate him, so to speak, in his natural propensities and in his natural desires. What appears to me to be the duty of society is simply to supply a man of that description with such food as will keep him from starvation; immediately you allow the point of luxury to come in, then I say, why not carry it out to even an extreme? If you gave a man merely such food as would keep him from starving, and allowed him to labour as every industrious person has to do outside the prison, and forced him to labour for the extra things which he got, I have not the least doubt that you would have great good done.

3529. Do you think that the present system of prison discipline is an object of terror to the criminal classes?—I think not. I do not think they care about prison discipline. I do not think they trouble their heads about it; they say that it is irksome, but the criminal seldom or never troubles his head about anything; that is the peculiar quality of the criminal character. He does not speculate at all as to whether this thing or that thing will ensue; he lives impulsively, and he lives without foresight.

3530. You are well aware that it becomes more and more difficult every day to transport criminals to our colonies; what remedies would you propose for transportation in the case of the habitual criminal?—It is very difficult indeed to propose remedies, but I think the scale of punishment should increase more than it does at the present time; that a greater sentence should be given to a man in proportion to the number of recommitments, so as to let every man see that each additional commitment added something to his chance of being locked up for life eventually; and I think that if, instead of having a definite scale of punishments, you had a graduated scale of punishments, which should increase and rise in proportion to the number of commitments, it might have a very salutary effect upon the criminal character.

3531. Do you think that there is a definite period in the life of a criminal in which he passes from the casual to the habitual class?—My experience leads me to this melancholy result, that there is a large class, so to speak, which belongs to a criminal race, living in particular districts of society; the generation being born, and handed down from one age to another. For instance, in Paris, it is very well known, that the criminals at the present day all reside in the *quartier* of the city which was the old sanctuary. It is a peculiar thing here, that all the great resorts of the criminals lie amongst the old sanctuaries also; so that you have the criminal population round about the different quarters of London, and these people have bred, until at last you have persons who come into the world as criminals, and go out as criminals, and they know nothing else.

3532. Do you think that no considerable impression has been made upon that class by education and civilization?—The results will show to you that education simply does what one of the policemen said to me, that it teaches your thief to steal the article which is marked at the highest figure. It is a very peculiar point that in the counties where there is the greatest ignorance there is the least criminality, in the Welsh counties.

3533. Sir *John Pakington.*] Upon what experience do you found all these opinions;

Mr. H. Mayhew. opinions; I mean your actual experience of the criminal class?—Being among them, and continually seeing them.

19 June 1856. 3534. What has led you to be so continually among them?—I commenced an inquiry in the "Morning Chronicle" about the labourers and the poor of London, and that led me to certain pursuits with my own profession, and it became necessary that I should study these people and should understand them, in order to be able to write about them.

3535. I think you spoke of six or seven years' experience; have you made it your habit during those six or seven years' experience to associate as much as you could for these purposes with the criminal classes?—Certainly, with the exception of a term of two years, during which I was abroad.

3536. Speaking generally, have you found them willing to communicate frankly to you the history of their past lives and their future views?—Yes, generally.

3537. Have you continued this practice of personal communication with the criminal classes down to the present time?—Yes; and I am now in communication with them.

3538. Has it been as constant for the last two or three years as it was before?—It has been rather more constant of late.

3539. Have you directed your inquiries during the last two or three years to ascertain the comparative views of the criminal class with regard to the system of punishment which prevailed before 1853 and since 1853?—No, I have not.

3540. Am I to collect from your last answer that you are unable to state to this Committee the light in which the criminals with whom you communicate, regard the punishment of penal servitude as compared with the punishment of transportation?—Not from the prisoners themselves, but I know from the prison authorities. I have been making a visit to the whole of the prisons of London within these last two or three months, specially as a matter of business upon special inquiries, and I know from the prison authorities there that penal servitude is considered to be much more terrible than the old system of transportation.

3541. You mean not from the prisoners, but from the officers?—From the officers, and from the governors, and from the chaplains.

3542. Do you mean that they have told you that as the result of their inquiries?—Yes.

3543. How is it that you, having had such very constant communication with criminals during this period, and this being a question both of great general public interest, and also closely connected with your own pursuits, you have not asked them what they think about it?—Because I am not allowed to speak to the prisoners.

3544. I do not speak of the men whom you see in prisons, but of the men who you say are constantly coming to your house, and whom you see every day?—I do speak to them, but I have not made it matter of a special inquiry, because I attend simply to one subject at a time. When I come to consider the matter of punishment with criminals themselves, then I shall speak to them, and elicit information upon the subject.

3545. Then I understand that, notwithstanding your constant communication with these criminals, it has not been such for these last two or three years as to enable you to give information to this Committee upon that portion of our inquiry?—Not from special inquiries on the subject. I speak only of incidental inquiries upon the subject; I have made only incidental inquiries upon the subject.

3546. What has been the result of your incidental inquiries with respect to the comparison between penal servitude and transportation?—That the men themselves would rather that society reverted to the old system of transportation, instead of penal servitude.

3547. I thought you said that you had not asked them the question?—I beg your pardon. I said not specially; I have directed no special inquiries to that subject. All these communications have arisen from incidental talking with the men.

3548. Whether it has been specially or not, I want to know whether, in the course of your constant communications with these persons, you have made

that

that matter one subject of your inquiry?—Yes, talking with them cursorily. I thought you asked me whether I had made it a special matter of inquiry.

3549. Have you or not made it a subject of inquiry?—I have.

3550. To what extent have you made it a subject of inquiry?—With almost every man with whom I have spoken.

3551. To what number do you suppose you have ever put that question, which they thought the most deterring punishment, transportation or penal servitude?—I cannot say.

3552. Do you suppose that you have ever asked 50 persons that question?—I should think I have, and more. I have had meetings of the people.

3553. Have the answers been uniform?—Generally.

3554. The majority?—Yes, the majority.

3555. The majority dread penal servitude more than transportation?—They do.

3556. Have they ever told you why?—Many of them, as I said before, like the vagabondage of a primitive country; they themselves will tell you that. Their own phrase is, that they love to shake a free leg.

3557. You are aware that, under the system which has prevailed for many years, before they can shake a free leg in another country they must go through a period of separate confinement and a period upon public works?—Yes.

3558. That system, so far as it goes, is precisely the same as the system of penal servitude; you are aware of that?—No, I beg your pardon. I think not. With the penal servitude what they object to is, that there is no hope for them. They say, once in prison, there is no chance of any remission of their sentence.

3559. You misunderstand me. I ask whether you are not aware that in the one case, down to the period of the termination of the sentence, and in the other case, down to the period of going abroad, the two sentences are the same?—Yes.

3560. Then your impression is, that the prisoner, at the termination of that system on public works, had rather go abroad than find himself again at liberty among his old associates in England?—Yes; especially when he has certain habits upon him which he cannot possibly pursue here. When he is hunted here, and he finds that he gets tired of his life here, he wishes then to change his habits and to change his associates.

3561. With regard to the ticket-of-leave system, I understand you to say, that at all events, with a considerable class, namely, those whom you designate as casual offenders, you think the ticket of leave would work beneficially?—I do believe that it would work very beneficially.

3562. You think that it is a practical benefit to a man to be released with a ticket of leave as a proof of good conduct in prison, and as an increased means of deterring him from fresh crime, rather than that he should be let loose at the extreme end of his sentence without any such check?—Yes, I think so.

3563. You have no doubt upon that point?—I have not the least doubt upon it.

3564. Have you ever heard direct opinions expressed by the criminal class upon this question of being set at liberty with or without a ticket of leave?—I cannot say direct opinions; but the opinions which I express to you come out from conversation with the men. As I said before, there is scarcely a day passes but I have some three or four men, and sometimes my rooms are full of these men.

3565. What opinions have you collected from your conversations with them, as to their own views of being released with a ticket of leave?—They think that it is a boon to them, as enabling them to start in the world, so to speak, with a good character from the prison.

3566. Do they regard it as a sort of protection for the time?—They do.

3567. Do you think that a man would very much prefer being released with a ticket of leave rather than without a ticket of leave?—Certainly.

3568. You expressed an opinion that the law ought to attach more severe punishment in those cases where men are re-committed after former conviction?—Yes.

3569. Are you not aware that both upon the Statute-book and in practice this is really done; that severer punishments are awarded in those cases?—I am aware of that; but you have merely two extremes. You have no rising scale

Mr. *H. Mayhew.*

19 June 1856.

with each re-commitment. I believe that if you had a rising scale with each re-commitment, so that a greater sentence was given to the man, and he found that the severity of his sentence depended in a measure upon himself, he would be more guarded in his acts.

3570. Are you not aware in addition to the law recognising the previous conviction as an offence, that for every offence the law gives a very wide discretion as to the punishment, so that the court can always fix a severer punishment in those cases where previous misconduct is proved?—In the prisons the men are divided simply into the knowns and the not knowns; and such is the case I have generally heard upon trials; the police are asked if the man be known to them; if he be known to them, and has been previously convicted, it is no matter whether he has been convicted once, twice, or thrice; he is treated as a hardened and habitual criminal, and the higher sentence or the longer sentence is attached to his crime.

3571. Your answer seems to me to apply to the practice in the prisons. My question related to the practice in the courts?—I spoke also of the practice of the courts.

3572. You spoke of the practice of the prisons?—Afterwards I meant to allude to the practice of the courts.

3573. Mr. *Adderley.*] You consider the habitual class of criminals incorrigible, generally speaking?—Not the whole of them.

3574. But generally speaking?—Many of them.

3575. And your proposition is, that that class should be got rid of by transportation?—I should not like to go to that extreme; but there is not the least doubt that a great good would be done to society by removing many; I think that even many of the habitual class may be reformed, if rightly dealt with.

3576. The casual class are generally guilty of the greater offences?—Yes, certainly.

3577. Then would not your proposition rather reverse the present order of transportation, and be transporting the least crimes and the worst criminals, and keeping at home the worst crimes and the least criminals?—No; I beg your pardon. The heavy offence men, as they are called in the prisons, are known to the prison authorities to be the best conducted people; they are very often, so to speak, the worst classes; offences of a greater character have been done to society, but among many of those heavy offence men also there are very dangerous characters indeed.

3578. I am talking not of exceptional cases, but of the general result?—I am speaking of the general result. We must remember that under the heavy offences are included burglars, and are included also coiners.

3579. Do you suppose, if your suggestion were possible, namely, that we should get rid of the habitual class as much as possible, and have chiefly to deal with the casual class, that that fixed proportion of criminals to the population would remain?—I believe so. I believe you make no attempts, in any way to alter the early life of the criminal—the young child who is bred and born among criminal associates.

3580. But the casual class chiefly comprises persons who at any period of life have been driven by sudden impulse into crime?—Yes.

3581. If you had chiefly to deal with that class in this country, should you still expect the proportion of criminals to the population to remain so fixed as at present?—The habitual classes would still keep up the remainder. You would still have the young habitual criminals coming up. In the class of casual crimes we hardly know as yet as to whether casual crimes increase yearly or not with us, or what is the cause of casual crimes. We know, so to speak, what is the cause of habitual crimes.

3582. But under those circumstances, would not the cause of such a fixed proportion become only an incidental element in the general result?—I think not. I think you would find the young thieves still grow up among them.

3583. Have you considered much the possibility of establishing institutions of refuge or patronage for discharged prisoners?—I have.

3584. Have you any suggestion to make upon that subject?—I am now myself about instituting a society for discharged criminals.

3585. Are

3585. Are your plans sufficiently matured to enable you to give us a sketch of them?—I do not know whether I have the plan here. I shall be happy to send it to the Committee.

3586. Can you state generally the nature of it?—The object of it is to supply discharged criminals with employment, and also to give guarantees to employers finding work for them. The guarantees will be arranged upon this plan, the risk increasing with the number of re-committals to prison; and we expect that the casual offenders will fully pay, whereas upon the others there may be a certain amount of loss. Therefore we shall be more strict and more careful that they have no situations of trust given to them. We propose having some distinct homes; I believe as many as four. The one home is for the agricultural class of offenders who are found to be (generally I am speaking of other persons' experience rather than my own) very hopeful, and very capable of reformation in the prisons; very tractable people; another home will be for casual offenders; and another home will be for a separation of the old and the young. With old men I believe it is possible to do something, but with young men I must say that every experiment which I have tried (and I have tried a great number with such classes) has signally failed. I refer to the very old who are worn out, and tired of their evil courses, and to the young, not the very young, but the young from 15 to 25; I do not mean juveniles.

3587. Sir *John Pakington.*] Do you mean that the young of from 15 to 25 are not the most capable of reformation?—They are the least capable of reformation; I have tried numbers of experiments with boys; I have also sent them abroad, and I believe in every case no good has been worked with them.

3588. Mr. *Adderley.*] In your comparison between old and young, you have taken the two periods of life when the passions are strongest and the passions are weakest?—Yes.

3589. Mr. *Monckton Milnes.*] You do not at all mean what you have stated to apply to what are ordinarily called juvenile criminals?—Certainly not; I find by the criminal returns, and I believe it also holds good upon physiological knowledge, that there is a certain criminal age, the age at which the will is first developed, and before the reason is brought to that state of development to exercise great control upon the passions.

3590. Mr. *Adderley.*] Will you now proceed with your plan?—I also propose having an emigration fund upon the plan of the land and building societies, so that the men who had earned a certain sum of money shall be able to purchase, if possible, and have allotted to them a certain small quantity of land, and also to get a free passage; that they shall go out, as it were, as a free community, and that we shall find them employment suited to their natures. I believe the great error lies in not understanding the criminal nature, or treating all criminals as if they were one individual.

3591. Is there any institution in existence which you have adopted as your model?—No.

3592. Is there anything of the sort in London at present?—I believe not.

3593. Does the institution at Brixton, or Mrs. Fry's, at all do that for female criminals which you propose to do for all?—No, I believe not.

3594. Are both the support and the administration of your institution to be entirely given by private benevolence?—At first, I believe that we shall be obliged to require certain funds from society; but I hope that after a time it may be self-supporting.

3595. Are your funds to come from private subscriptions, or do you look to any public funds?—From private subscriptions.

3596. Wholly?—Wholly.

3597. Do you see any very great advantage in such institutions being wholly supported by private means?—No, I do not.

3598. Do you not conceive that private individuals might be able to do many things in the way of getting employment, and facilitating the emigration of discharged prisoners, which the Government could not do?—Yes, they might; but I hold that it is a duty of the Government to attend to the subject, and to devote itself to that particular branch.

3599. Do you think that private institutions of that kind might be made an outlet by emigration for discharged prisoners, which might wholly supersede the necessity of transportation?—I do. I believe that what is wanted is a medium institution between the prison and the public, where a man can undergo a

Mr. *H. Mayhew.*

19 June 1856.

different training, where he can be entrusted with more liberty, and can be treated more like a rational human being. For instance, they have found so much the necessity, I believe, at the Brixton Female Prison, of some such institution in connexion with the female convicts, that they are now founding a female refuge for the training of the convicts for domestic servitude, and for being capable of giving them characters to the public for good behaviour, and so assuring them that there is little danger from employing them.

3600. Do you believe that such institutions in private hands would be more thoroughly disconnected from prisons?—I do certainly, and I think that you would have less of the excess of disciplinarianism in private institutions, compared with what you are likely to have in a Government institution.

3601. Do you conceive that persons kept in such private institutions would get more completely free from the stigma of a penal treatment?—Yes, most certainly.

3602. Do you believe that by that process they would be more likely to get into employment?—Most certainly.

3603. Do you believe that employers would be more likely to take persons from such private institutions than they would from any institutions in the hands of Government?—I cannot say.

3604. Why do you distribute your institution into several small institutions, instead of having one large one?—Because I see so much danger from allowing criminals to associate one with the other.

3605. Have you any idea of its being more possible to get characters from the heads of small institutions than from the head of a large institution, which might incur somewhat of the stigma of the class which it contained?—No, I think not; the only object in the division is really to separate and divide the men into, so to speak, the workable classes, so that you may come to some conclusion as to what you are doing, and may find out what number or what per-centage of reformations you introduce among the different sets of people.

3606. Are you in hopes that such institutions springing up in various parts of the country might assist each other?—Yes, I do believe that they might do so greatly.

3607. By removing criminals to other localities than those in which their old associations are?—Yes, most certainly.

3608. Are there any institutions in any part of England of this kind?—I believe not, so far as my experience goes.

3609. Are you aware whether the Refuge at Wakefield, or what has been done at Birmingham, or anything at Liverpool, or anything at Manchester, by Mr. Wright, has to any extent commenced such an institution?—No, I am not aware of anything; I include other things; I include, for instance, lectures of an evening; I include perfect liberty.

3610. When I was asking you about any such institutions, I meant anything of the kind, not institutions which wholly embraced your views, but which in any way offered facilities for discharged criminals obtaining honest employment?—Yes.

3611. Then you think that there is some hope and expectation of such institutions springing up in various parts of the kingdom?—Yes, I do.

3612. Mr. Serjeant *O'Brien.*] It has been stated here that numbers of those who have obtained tickets of leave have either destroyed them or concealed them?—Yes.

3613. How do you reconcile that with your statement that the holders of them consider them a great benefit?—So they do; but they wish to keep them secret from the police. If found among their old associates, or if charged even with being among suspected thieves, they lose their licence, and are sent back to prison for the whole term; therefore they take care not to have upon them any property which may say to the police that they are ticket-of-leave men; that is the simple reason of their destroying the tickets; that I know most positively.

3614. Mr. *Adderley.*] I suspect that the tickets of leave are destroyed by those who intend to revert to their former ill practices, and are kept by those who wish to get into honest employment?—I know several men who still have them, and they show them to you directly they come; but I think a man is generally averse to showing his ticket of leave, or even to having it about him; he would show it to any person of whom he sought employment as a certificate; that he had

had a ticket of leave, but he would not be proud of showing it to any of the public at any rate.

3615. Mr. *John Wynne.*] Do you think that those persons with whom you are conversant, are a fair sprinkling of habitual criminals in general, or are those who are tired of their ways?—I think they are a fair sample. I have had a boy who has been 29 times in prison, and not 20 years of age. I have had two or three boys who were known thieves living in my house at one time.

3616. Are you acquainted with the operations of the Reformatory Establishment in Smith-street, Westminster?—Yes, Mr. Nash's. I thought that rather excessive; I thought it likely rather to turn men back than to win them, I must confess, although I believe that it has done great good. I have heard of great good having been done by it. I am merely speaking now of such things as appear to me to have been injudicious, and which if they had been altered would have been calculated to lead to still further good than they did.

3617. Mr. *Massey.*] In your opinion has a man who has been convicted in a court of justice, a fair chance of obtaining honest employment in this country?—It is very difficult indeed for him to obtain honest employment.

3618. His difficulties, of course, are far greater than those of a man with an untainted character?—Much greater. As I see the bearing of that question, you will allow me to say at the same time, that a ticket of leave is granted only to men when they can show that they are to be provided with employment; it is not given indiscriminately. I have letters here from the Government which I have myself copied; letters not given to me by any Member of the Government, because I do not advocate this upon any Government principle; I myself copied them when they came to the person at whose house I was; they were asking for employment for a prisoner, and stating that if he could get employment, he should be liberated upon licence, and not without it. It is very difficult indeed to get employment.

# LIST.

## Appendix, No. 1.

PAPERS delivered in by M. D. Hill, Esq., Q.C.: PAGE

Special Report respecting the undermentioned Ticket-of-Leave Men, January 1856 - 159

Letter from M. D. Hill, Esq., Q.C., to the Chairman - - - - - - - - 160

State Prison at Munich:—Questions and their Answers - - - - - - 168

The Prison at Valencia:—Questions and their Answers - - - - - - 171

Correspondence on the Application of the Ticket-of-Leave System to Convicts adjudged to Penal Servitude - - - - - - - - - - - - - 175

Report of a Meeting held at Birmingham, on Tuesday, 15 April 1856, to form a Local Establishment for the Relief and Employment of Discharged Criminals - - - 181

Letter to the Inhabitants of the Borough of Birmingham - - - - - - - 185

The Ticket-of-Leave System:—Charge to the Grand Jury of Birmingham, delivered by the Recorder at the October Sessions, 1855 - - - - - - - - - 186

Letter from M. D. Hill, Esq., Q.C., to the Chairman, containing an Abstract of a Report on the Five Points House of Industry, New York, dated 23 June 1856 - 190

Letter from M. D. Hill, Q.C., to the Right Honourable M. T. Baines, Chairman, dated 27 June 1856 - - - - - - - - - - - - - - - - 193

## Appendix, No. 2.

Letter from the Right Hon. Earl Grey to the Right Hon. M. T. Baines, M.P., Chairman, with an Enclosure, dated 5 June 1856 - - - - - - - - - - - - 195

## Appendix, No. 3.

Tickets of Leave:—Statement showing the Number and Proportion of Ticket-of-Leave Men Released in different Counties - - - - - - - - - - - - 196

## Appendix, No. 4.

PAPER delivered in by Sir Richard Mayne, K.C.B., 19 June 1856:

Reports by Superintendents of the Number of Ticket-of-Leave Convicts residing on their respective Divisions; and Opinions as to their Means of gaining a Livelihood.—January 1856 - - - - - - - - - - - - - - - 197

Return of the number of Persons recognised as having been in Custody more than once, for Felony, during the last Seven Years - - - - - - - - - - - 203

## Appendix, No. 5.

Report of Serjeant William Smith, dated 23 June 1856 - - - - - - - - 204

# APPENDIX.

## Appendix, No. 1.

PAPERS delivered in by *M. D. Hill*, Esq., Q. C..



SPECIAL REPORT respecting the undermentioned TICKET-OF-LEAVE MEN, January 1856.

| NAMES. | REPORT. | BY WHOM MADE, AND WHEN. |
|---|---|---|
| J. W. (good) - | Is striving to gain an honest livelihood, and is not known to associate with bad characters. | Inspector Glossop, 23 January 1856. |
| J. Y. (doubtful) - | On his return to Birmingham he was seen in company with thieves; but upon being cautioned by the police, he has since been endeavouring to get his living by work, and has not been seen with his old associates. | Sub-Inspector Tandy, 22 January 1856. |
| J. A. (good) - | Is gaining his livelihood by work, and has not been seen in company of bad characters. | P. S. Dutton, 23 January 1856. |
| J. R. (bad) - | Has been keeping company of thieves since his return, although he goes to work. He kept a low lodging-house, which was the resort of bad characters, which he has now given up. | P. S. Manton, P. C. Kelly, 5 January 1856. |
| T. W. (bad) - | Went to work at Nottingham. He states that he came to Birmingham at the suggestion of the Nottingham police. He has always borne (since known to the Birmingham police) a bad character, and keeps company of thieves, and has again taken to thieving. | Inspector Glossop, Sub-Inspector Tandy, P. S. Manton, 16 January 1856. |
| W. B. (bad) - | Has returned to his old practices, and never goes to work. | Sub-Inspector Tandy, P. S. Dutton, P. C. Palmer, 5 January 1856. |
| F. H. (good) - | Is getting his living honestly, by exhibiting a panorama. | P. S. Dutton, 23 January 1856. |
| J. W., *alias* B. (bad). | Supposed to be employed as a bailiff; is seen in company of thieves. | Sub-Inspector Tandy, P. S. Manton, 23 January 1856. |
| T. M. (doubtful) | Has been cautioned by the police for keeping company of thieves. His parents are well off, and are supporting him. | P. C. Palmer, 23 January 1856. |
| C. B. (good) - | Has been working for his living, and has not been seen in company of thieves since his return. He has now enlisted into the army. | P. C. Kelly, 23 January 1856. |
| T. V. (good) - | Went to work on his return, and has not since been seen in company of bad characters. He was a receiver of stolen goods previous to his apprehension. | P. C. Palmer, 23 January 1856. |
| J. N. (good) - | As in the case of T. V. (with the exception of being a known receiver). [Probably means that he is not a known receiver like V.—*M. D. H.*] | |
| F. P. (good) - | He is getting an honest livelihood, and has not been seen since his return in the company of bad characters. | P. C. Kelly, 23 January 1856. |
| G. E. (good) - | As in the case of F. P. - - - - - - | P. C. Palmer, 23 January 1856. |

(*continued*)

Appendix, No. 1.

| NAMES. | REPORT. | BY WHOM MADE, AND WHEN. |
|---|---|---|
| J. W. (bad) - | Has been in company of thieves since his liberation. He is now in Worcester Gaol for passing counterfeit coin. There is a case of felony against him at Birmingham, which will be gone into on the expiration of his imprisonment. | P. S. Manton, P. C. Kelly, 12 January 1856. |
| J. D. (bad) - | Returned to Birmingham about two months. Has been since seen in company of thieves. He was cautioned by the police on the 5th instant, and has not been since seen. | Sub-Inspector Tandy, P. S. Dutton, 5 January 1856. |
| R. S. (bad) - | Keeps company of thieves; also a brothel. Cautioned on the 4th instant, when he said he did not care a damn for the authorities. | P. S. Dutton, P. C. Palmer, 4 January 1856. |
| J. H. (bad) - | Keeps company of thieves, and is following his old practices. Has been since in custody for felony. He is now card-sharping on the railway. He was transported from Chester, and it is not known whether he has a ticket-of-leave. | Sub-Inspector Tandy, P. S. Manton, 22 January 1856. |
| S. H. (bad) - | Came back October 1854. He states that he burnt his ticket-of-leave in London. He was in custody on the 12th instant for felony, but was discharged, the evidence being insufficient. He was again apprehended on the 25th instant for having skeleton keys in his possession in the night, and committed to the next Borough Sessions. | P. C. Spokes, P. C. Claxton, 14 January 1856. |

Chief Office, Birmingham, 31 January 1856.

(signed) *R. A. Stephens*, Chief of Police.

## LETTER from *M. D. Hill*, Esq., Q.C., to the Chairman.

Sir, Heath House, Stapleton, Bristol, 20 June 1856.

A FEW days ago I received, from Spain, a communication which I desire to lay before the Committee. It consists of answers furnished by Colonel Don Manuel Montesinos, late Governor of the Prison of Valencia, to questions similar to those which I transmitted to Munich, for the purpose of obtaining information regarding the present condition of the State Prison in that city; which questions, with their answers, as translated by Mr. Leipner, of Clifton, you have already decided to print in your Appendix. The contribution from Valencia, which I have obtained through the kindness of the eminent house of Christobal de Murrietta & Co., will, I think, be found equally important with that from Munich. But the value of each will so obviously depend on the confidence which the Committee may be induced to place on the facts to be found in these communications, that I venture to hope you will allow me to lay before you, as briefly as I can, such corroboration of the statements to be found in each paper, as I have been able to meet with.

The attention of the English public was first called to the system of discipline practised in the State Prison of Munich, by Mr. Alexander Baillie Cochrane, formerly a Member of your House of Parliament, in a pamphlet published in the year 1853, the title of which will be found below:*

"While I was residing last year at Munich, my attention was particularly invited to the system of prison discipline practised in the State Prison, under the intelligent superintendence of M. Obermaier; a system, as explained to me, so opposed to all my preconceived notions, and apparently founded on such Utopian ideas of the perfectibility of human nature, that it required the most minute investigation to satisfy me of the accuracy of my informants.

"Some 20 years have elapsed since M. Obermaier first denounced the prison system which prevailed in Germany. Unlike many reformers of the age, he did not rest contented with pointing out existing evils, but he lost no time in urging upon the attention of the Government all those reforms which have since been carried out in different districts, and for the full development of which the State Prison of Munich afforded the widest scope; it is not surprising if, in the first instance, his suggestions were received as the aberrations of an amiable visionary, for he started a theory which many years since was received, even in this country, with doubt and mistrust, namely, that the worst of criminals will commonly be found possessed of some one good quality; and that a system of prison discipline, based rather on pity than harshness, and

* "Prison Discipline, by C. M. Obermaier, Governor of the Munich State Prison. Translated by M. Rehbann, with a Prefatory Notice by Alexander Baillie Cochrane." London: James Ridgway, 169, Piccadilly, 1853. (Out of print.)

and appealing to the nobler and not the brutal instincts of human nature, would tend to raise men's self-respect, and thus gradually work upon their moral qualities; that it was at once a wiser and a more humane policy to sympathise with the force of the temptation to which the criminal had yielded, than to visit with undue severity its guilty consequences.

"By slow degrees, and through that earnestness and sincerity which cannot fail ultimately to win conviction, M. Obermaier gained adherents to his opinions, and opportunities for testing their value; after some years' experience at the prison of Kaiserslautern, where a system unusually harsh was replaced by one based on commiseration and pity, M. Obermaier was appointed governor of the Munich State Prison, which situation he now holds.

"When M. Obermaier first arrived at Munich, he found from 600 to 700 prisoners in the gaol, in the worst state of insubordination, and whose excesses, he was told, defied the harshest and most stringent discipline; the prisoners were all chained together, and attached to each chain was an iron weight, which the strongest found difficulty in dragging along; the guard consisted of about 100 soldiers, who did duty not only at the gates and around the walls, but also in the passages, and even in the workshops and dormitories; and, strangest of all protections against the possibility of an outbreak or individual evasion, 20 to 30 large savage dogs of the bloodhound breed were let loose at night in the passages and courts, to keep their watch and ward. According to his account, the place was a perfect Pandemonium, comprising within the limits of a few acres, the worst passions, the most slavish vices, and the most heartless tyranny.

"It was his work to purify this den of corruption, and he set gallantly to it. His first object, he told me, was to enlist the sympathies, and to win the confidence of some of the best of the men; afterwards to bring those men together, and subsequently so far as they were concerned, to relax the severity of the prison rules. These men in their turn exercised a very gradual, but a very marked influence over others, until they formed a body willing to co-operate with him in his schemes of improvement. As the characters of these men became improved, their cheerfulness seemed to increase; as he lightened the weight of the chains on their limbs, so did the weight on their hearts appear to be removed. M. Obermaier admitted that the process was a long and painful one, but that the result is most satisfactory must be admitted by all those who have taken the trouble of visiting this remarkable establishment.

"Although all I had been told led me to anticipate a great relaxation of ordinary prison precautions, I certainly scarcely expected to see the prison gates wide open, without any sentinel at the door, and a guard of only twenty men idling away their time in a guard-room off the entrance hall; from this hall two long corridors led right and left to the various offices and workshops; the apartments of the governor were on the first floor, and immediately adjoining them, and in the same passage were the dormitories and workshops. These workshops were of various dimensions, capable of holding from 20 to 60 men; none of the doors were provided with bolts and bars; the only security was an ordinary lock, and as in most of the rooms the key was not turned, there was no obstacle to the men walking into the passage, and I have already observed that there were only 20 soldiers to prevent them stepping from the passages into the road. Over each workshop some of the prisoners with the best characters were appointed overseers, and M. Obermaier assured me, that if a prisoner ever transgressed a regulation, his companions generally told him, 'Es ist verboten,' (it is forbidden), and it rarely happened that he did not yield to the opinion of his fellow prisoners. Few of the men wore chains, and the chains, when worn, were so light that they produced no practical inconvenience. M. Obermaier explained, that he objected even to this remnant of the old system, but that the authorities insisted on certain forms of restraint being maintained.

"Within the prison walls every description of work is carried on; the prisoners divided into different gangs, and supplied with instruments and tools, make their own clothes, repair their own prison walls, and forge their own chains, producing various specimens of manufacture which are turned to most excellent account, the result being, that each prisoner, by occupation and industry, maintains himself; the surplus of his earnings being given to him on his emancipation, avoids his being parted with in a state of destitution, a very necessary and important consideration, as, from having something to fall back upon, he may be prevented resorting to those pernicious habits and propensities which had brought him within the sphere of the criminal code.

"The articles manufactured by the prisoners are all exported, that the sale of such produce might not injure or in any way interfere with the home manufactures. The return enables the Government to uphold the institution at a comparatively trifling expense.* On entering each room, it was impossible not to have remarked the deportment of the prisoners towards the governor, for the kind and friendly manner in which he addressed them was responded to by a civility of manner rarely, under any circumstances, exhibited by men of that class, and still more rarely by such men when placed in that position. Neither in the passages, within the prison walls, nor in the courts without, was any guard to be seen; the governor walked about with a walking-stick, and his sole escort was a pet dog of enormous size, of the Pomeranian breed; altogether the effect produced upon myself, and those who accompanied me on this visit, was one of great astonishment, while, even after being an eye-witness of the system pursued, and listening to M. Obermaier's explanation, it was very difficult to uproot all our previously formed opinions, or, as M. Obermaier might have termed them, prejudices.

"One

* The answers of the Bavarian Minister of the Interior do not support this statement.—*M. D. H.*

Appendix, No. 1.

"One of the party was disposed to explain this social phenomenon by the phlegmatic habits of the Germans, whom it is difficult to stimulate to active exertion if their daily wants are duly attended to; this explanation might suffice, if this system had been universally and originally adopted throughout Germany, by those who were most competent to appreciate the national character; but it fails to satisfy us, when it is remembered that the discipline which M. Obermaier found carried on in the Munich prison, and which still prevails in Germany, was so severe, that it proved very little confidence on the part of the Government in the apathy and sluggish indifference of those subjected to it. Another suggested that the prisoners were supplied with greater comforts than under the old system, in fact that the life was so agreeable, they might have no desire to exchange it for another; but M. Obermaier pointed out that the changes he had made were only in those details which tended to develop the moral qualities, that the diet, the working hours remained the same, and he added, with force and justice, that the very men whom the lightening the weights of the chains, and the removal of bolts and bars, could affect in so remarkable a manner, were precisely those to whom the loss of liberty would appear most appalling; besides, freedom is, after all the first affection of the human mind, and no amount of comfort could compensate for a life of monotony and imprisonment. Then it was remarked, that even a guard of twenty men, with loaded arms, is a sufficient protection, and that though the men were to escape, it would not be possible for them long to avoid re-capture. This may be true, but at the same time, so great a number of men, with working tools in their hands, would be a formidable body to resist. But the question this idea suggests is, is the protection such as a governor, placed in so responsible a situation, could feel justified in trusting to, if he only relied on such physical aid for the security of the prison?

"The whole matter is to me a problem which, even after visiting the prison and reading M. Obermaier's explanation, I find it difficult to understand; whenever I have mentioned the subject I have found the idea of treating such men with confidence, and the hope of ever humanising a set of ruffians, scouted as impracticable and Utopian. Still so many grave considerations are involved in this question of prison discipline, and it being universally recognised of such permanent importance, I have thought a translation of the most important parts of the Obermaier pamphlet may not be without interest; I have therefore taken the liberty of prefacing these extracts by these few remarks. I have not published M. Obermaier's work *in extenso* because it is very long, and much of it is irrelevant to the subject, consisting in the greater part of a description of Pentonville Prison, and in remarks on the system of solitary imprisonment."

Then follows a *prècis* of Governor Obermaier's work * which brings the history of the prison to the year 1846. The results of his plans he states thus:—

"I undertook the direction of the prison of Kaiserslautern in 1830, and my task was fulfilled in the year 1836.

"In 1842 I was appointed governor of the Munich Prison, and in 1845 the whole scheme was in full operation, such as it may be seen at the present time.

"I discharged from Kaiserslautern, between the years 1830 and 1836, 132 criminals, who had been sentenced for different crimes, for periods from five to twenty years; of these 132, 123 have since their discharge been admirably conducted, and nine, that is seven men and two women have been recommitted. This statement is founded on the testimony of the authorities in the different places to which the men returned, and it is a well-attested fact; this proportion between the reformed and the relapsed, remained nearly the same until 1842.

"The results of my management were equally successful in the prison of Munich. Although it was carried out within the walls of an old convent, ill adapted for the purposes of a prison, I was the more confirmed in my impressions at finding that a similar treatment carried out, in two different German provinces, was attended with equally satisfactory results; the official returns give the following results of the Munich treatment.

"There were discharged between the years 1843 and 1845, 298 prisoners sentenced for various periods of from one to twenty years.

"Of these, 246 have been restored improved to society. Those whose characters are doubtful, but have not been remanded for any criminal act, twenty-six. Again, under examination, four. Punished by the police, six. Remanded, eight. Died, eight.

"Now this statement is based on irrefutable evidence; it cannot be contradicted. It must either be that the great majority of the prisoners who quit the prison of Munich do so improved, or that those who are discharged, when they are set at liberty, improve themselves. I may add, that of the 246 who were discharged, 189 had been sentenced for murder, homicide, highway robbery, or theft."

A very interesting narrative of a visit to the Munich State Prison, the date of which is not mentioned, will be found in the Zoist, † for January last. The author is the Reverend Chauncy Hare Townshend, A.M. This gentleman speaks in terms of high commendation of all he witnessed during what appears to have been a minute examination of the prison, and, although he does not seem to be acquainted with Mr. Baillie Cochrane's pamphlet, he confirms all the statements of that gentleman. I can only venture upon a short extract.

"We

* Die Verhandlungen über Gefängnissreform in Frankfurt am Main im September 1846 oder Die Einzelhaft mit ihren Folgen von G. M. Obermaier kb. Regierungsrath und Vorstand der Strafarbeits Anstalt in München. München 1848, Joh. Palm's Hoffuchhandlung.

† "The Zoist:" Arthur Hall. Virtue & Co., 25, Paternoster-row.

"We now proceeded to various other apartments, in one of which the prisoners were making shoes; in another, plaiting list slippers; in another, turning boxes, candlesticks, napkin rings, &c. I was told that in choosing the occupation for the man, regard was had to his comparative health and strength, as well as to his particular turn for the handicraft, and also to his conduct: thus to be drafted on to the lighter and more amusing work was considered to be a reward. Every one was anxious to be a baker, and no wonder, for I never saw a more animated scene than the bakehouse presented. In this portion of the reformatory Erebus there was bustling and laughter and joking going on. My attendant told me that none but the better sort of criminals, who had either been condemned for only small offences, or who had worked their way up to confidence by long good conduct, were allowed to form part of the baking establishment. So it was with the cooking department, over which, besides, presided servants belonging to the institution itself. Of course, I must taste a loaf, and some soup. That is *de rigueur* in such cases. Both were excellent. I wish that all the Oliver Twists in the world might have as good in their workhouses! 'Was meat allowed every day?'

"No, three times a week.

"One of the most interesting sights was the prisoners' library, by no means an uncheerful room either. Being in the centre nearly, and looking into a court, it had not the obligatory bars and wooden vents or boxes (like hen coops turned topsy-turvy), that made you feel you were in a prison, when you were in the apartments looking upon the street. So knowledge was made attractive every way. A few mild-looking prisoners, chiefly invalids I was told, were reading in this book room as intently and silently as the studious in the British Museum. I looked at some of the books. They consisted chiefly of popularly instructive works. Sketches of astronomy or geography, history, travels, and the like. Not one mystically religious book did I see amidst the well-chosen collection. A few straightforward moral treatises or tales, inculcating love to God and man, that was all; and this in a Catholic country too! But Bavaria has many Protestant subjects, and, at the time I speak of, had a Protestant queen.

"The cloth manufactory, in itself a vast establishment, had very little of the prison in its appearance. The better class of criminals only were admitted here. Tidy-looking men they were; in full activity; running bustling about, carding, weaving, dyeing, till the cloth came forth, all of that whinstone blue, which is familiar to so many eyes that have gazed upon the Bavarian soldiery. No hive of bees could be in fuller hum and ferment than was this part of the prison. This was one of the last sights of the establishment; but I must not forget to say that I had previously been shown the man of the double murder; the 20 years prisoner, who still had to end his life in captivity. He was in a large room where (I think), they were cleaning flax, or following some such quiet occupation, and he was one of the monitors (I was told) of the apartment. Of course I looked at him with interest. He had by no means an ill-formed head or countenance. He looked mild and pale; yet one could see in looking at his face, that the passions had walked over that exhausted land. They had passed; there was no fear of their return. One saw also *that*.

"Generally, I must observe, I was struck by the evidently bettered physiognomies of the criminals who had been longest in the prison. Two or three in fetters (for I saw some such) had, methought, hang-dog faces (perhaps the fetters partly made me think so), and some of the men in the working rooms had that shuffling uneasy look which indicates the criminal; but in the majority of cases, I could see in its various stages the retrieval of the degraded physiognomy. The prisoners, many of them, decidedly had begun to look honest men in the face, and to abjure themselves the character of wild beasts in a cage."

* * * * * *

"About what I saw in the Munich prison I have little more to tell. The dormitories, not too large nor containing too many occupants, presided over by servants of the prison as well as by monitors from amongst the prisoners themselves; the neat light iron bedsteads that could be turned up against the wall; the clean beds made every morning by their occupants; the well-ventilated infirmary (which had as little smell of burnt blankets and prisoner as possible) all was excellent and in good order."

The attention of English readers was called to the treatment of criminals at the prison of Valencia, by Mr. Hoskins, in his work entitled "Spain as it is," published in the year 1851.* The statements of Mr. Hoskins attracted the attention of Captain Maconochie, who in the year 1852 published a pamphlet † in which may be found all the information contained in Mr. Hoskins' book, together with copious extracts from a little work, by Colonel Montesinos himself.

"In a work recently published ('Spain as it is,' by G. A. Hoskins, Esq., i, pp. 104-10), an interesting account is given of the public prison at Valencia, in which the average number of prisoners is about 1,000, but 1,500 have been at one time received into it. They chiefly belong to the neighbouring districts of Albacete and Valencia. The accommodation provided in the prison is very imperfect, and there is little classification observed, the boys not being even separated from the men. In 1835 accordingly, when the present governor, Colonel

* "Spain as it is." G. A. Hoskins. Colburn & Co. 1851.

† "Account of the Public Prison of Valencia, calculated to receive 1,500 prisoners, averaging 1,000; yet in which during the last three years there has not been even one recommittal, and for the previous ten years the average was only one per cent. With observations, by Captain Maconochie, R.N., K.H." London: Charles Gilpin (now Cash), 5, Bishopgate-street Without, 1852.

Appendix, No. 1.

Colonel Don Manuel Montesinos was appointed to it, the average of recommittals was, from 30 to 35 per cent. per annum, nearly the same that is found in England and other countires in Europe; but such has been the success of his method, that for the last three years there has not been even one recommittal to it, and for the ten previous years they did not, on an average exceed one per cent.* The following, with a few unimportant omissions, is Mr. Hoskins's printed statement concerning what he himself saw of it, the additional details here annexed having been obtained from his personal testimony, and a pamphlet now in my possession, published by Colonel Montesinos in 1846. The plan at first was much disliked in the city of Valencia, on account of its lenity, but is now universally approved of; crime is said to have diminished in the district since it was matured; and its author has been since appointed, and now is Visitor General of Spanish Prisons (Visitador General de los Presidios del Reino).

"If the vices and passions of a southern people prevail in a place where, until the last few years, a strong government has not been enjoyed, it is greatly to the credit of the city of Valencia that it can boast of one of the best conducted prisons in Europe. This being one of the great social questions of the day I made particular inquiries about it. There are a thousand prisoners, and in the whole establishment I did not see above three or four guardians to keep them in order. They say there are only a dozen old soldiers, and not a bar or bolt that might not easily be broken; apparently not more fastenings than in any private house.

"The governor, a colonel in the army, has established military discipline, and the prisoners are divided into companies. The officers stand as stiff when you pass, as soldiers presenting arms. The sergeants and inferior officers are all convicts, who of course are acquainted with the temper and disposition of their companions, and best able to manage them; and the prospect of advancement to higher grades is an inducement to all to behave well. When a convict enters he is asked what trade or employment he will work at or learn, and above forty are open to him, so that he has the means of devoting his time to any he knows, or, if ignorant of all, to one he feels an inclination for, or which he is aware will be useful to him when he is liberated. Many a man may wish to return to his native village with what he has earned here, and he knows best what trade or employment will there not only be of advantage, but even a fortune to him. If he declines to work at any, he is sent to the public works, or employed in carrying wood; but the out-door convicts are by far the worst conducted in the establishment, and are therefore kept distinct from the others, who, by their selecting a trade have shown a disposition to be industrious and improve themselves.

"When first the convict enters the establishment he wears chains, but on his application to the commander they are taken off, unless he has not conducted himself well. Among some hundreds I only saw three or four with iron on their legs. There seemed to be the most perfect discipline. They work in rows; rose in rank as we passed, and seemed obedient to a word. They are not allowed to talk to each other during their work, but this rule does not seem to be very strictly enforced, and they may speak to their instructor, who is often one of themselves, and ask each other for tools or anything requisite for their work, and every night after prayers they are allowed to converse with each other for an hour. There are weavers and spinners of every description, manufacturing all qualities, from the coarsest linen cloths to the most beautiful damasks, rich silks and velvets—one a crimson, apparently equal to the Utrecht velvet. There were blacksmiths, shoemakers, basket-makers, rope-makers, joiners, cabinet-makers, making handsome mahogany drawers; and they had also a printing machine hard at work.

"The labour of every description for the repair, rebuilding, and cleaning the establishment is supplied by the convicts. They were all most respectful in their demeanour, and certainly I never saw such a good-looking set of prisoners, useful occupation (and other considerate treatment) having apparently improved their countenances. The greatest cleanliness prevailed in every part of the establishment; the dormitories were well ventilated, the beds neatly packed up, and water, the great requisite in a sultry climate, within reach of all. On the walls, in large letters, were inscriptions in rhyme, directed to inculcate good maxims. There was a neat chapel for their devotions, and a garden for exercise, planted with orange trees. There was also a poultry-yard for their amusement, with pheasants and various other kinds of birds; washing-houses, where they wash their clothes, and a shop where they can purchase, if they wish, tobacco, and other little comforts, out of one-fourth of the profits of their labour, which is given to them. Another fourth they are entitled to when they leave; the other half goes to the establishment, and often this is sufficient for all expenses without any assistance from the Government.

"The governor found it was impossible to induce the prisoners to work heartily without giving them an interest in their gains; but when once he had by this encouragement established industrious habits, it was more easy to correct their principles. Honour among thieves is really found here, the prisoners keeping the accounts, and no attempts made to deceive."

In

* By reference to the communication which I have received from Colonel Montesinos, it will be seen that he now gives the proportion of recommittals at two per cent. All statistics are open to fallacies, but those of prisons are obnoxious to error from a great variety of sources. Without the slightest disrespect to Colonel M. I must be permitted to accept this very high rate of reformation with considerable reserve.—*M. D. H.*

In a pamphlet* published by Mr. Hoskins in 1853, he relates the following anecdote:— Appendix, No. 1.

"A visitor expressing his doubts as to such feelings of honour existing among convicts, the governor asked the worst class in the prison—men sentenced to ten years—to select a messenger, and he gave him an onza to change in the city, which is such a labyrinth of narrow streets, escape was most easy. Great was the visitor's astonishment when the man returned with 3 *l.* 6 *s.* in small money."†

"It is doubtless the same feeling of honour which prevents their rebelling and leaving the asylum whenever they feel disposed.‡ It is surprising that the establishment requires so little assistance from the Government, as the expense of the officers and instructors is very considerable, and the governor has invariably made the teaching and moral improvement of the convicts his chief consideration, without any regard to the profits to be derived from them.

"All were cleanly dressed in woollen clothes of the same colour, which is requisite in case of any attempt to escape. In summer they have lighter clothes. Their food is excellent, and consists of large brown loaves, about the colour of our best London brown bread, but finer in quality and quite as good; rations of olla, rice, potatoes, and meat on fête days, which in Spain are numerous. Instruction is open to all in a large school, which the boys under twenty are obliged to attend for one hour daily, and any prisoner above that age who wishes may join the classes. I saw numerous instances of excellent writing (in the Spanish style) by lads and adults who could not write a line when they entered; and many have qualified themselves for clerk's places, which they have obtained on leaving the prison. There is a good hospital, with a dispensary, all as clean and comfortable as could be desired, but the average number in the hospitals never, they say, exceeds two per cent. This system may be thought too indulgent, but what is the result? During the last three years not one prisoner has been returned to it. In the ten previous years the average was not more than one per cent., though before that period the number of recommittals was 30 to 35 per cent. From January 1837 to 1846, the first nine years of the establishment, when the shops were not all open, and the institution in many respects was incomplete, 3,127 convicts confined there were liberated, and of these 2,355 had learnt some trade or received instruction, so that only 792 were without instruction, from their age or disinclination to receive any.

"It may be said that the stabbings, which are frequent in Valencia, would not be so common if severer punishments were inflicted, but they say that the use of the knife was much more frequent before this system was established. The great principle here is to afford an inducement to the criminals to work, to teach industrious habits, to inculcate honourable and virtuous principles, and to send them into the world better men, educated, and able to work at some trade, and with money in their pockets to start with instead of being obliged to have recourse to their old habits for subsistence.

"The success attending the reformation of the prisoners in this establishment is really a miracle, and England ought to make an attempt to do the same."

* * * * * * *

On several of these points Colonel Montesinos's words in his pamphlet are striking.

"According to the views to which I was thus led, and never forgetting that the double object of punishment is to reform those subjected to it, and to give a salutary warning to others, I sought by every means, and at any cost, to extirpate in my prisoners the lamentable germ of idleness, and to inspire them instead with a love of labour, seeking to impress this beneficial sentiment ever more and more in their hearts. But as unproductive work in the prison could by no means effect this, I made it a rule, whenever any one showed a disposition to labour, but had no occupation which could contribute after his discharge to maintain him honestly, to endeavour to procure him such, and for this purpose I sought to bring within the prison as many different workshops as possible, allowing him to choose among them which was likely to be most advantageous to him, and now there are above 40 of these all in full operation, and all originally organized and still maintained by the knowledge and capacity of the prisoners themselves. Neither for their introduction, nor for the rebuilding or repair of the prison, have I ever asked the Government for a single farthing (*un solo maravedi*), nor called in the assistance of any mechanics from without. It is true that the progress of many of these workshops has been thus very slow and troublesome, for not having had funds at my disposal for the first purchase even of the necessary tools and machines for them, I have been compelled to proceed only step by step in them. But

* "What shall we do with our Criminals? with an Account of the Prison of Valencia and the Penitentiary of Mettray." By G. A. Hoskins, Esq. London: Ridgway, 1853.

† It will perhaps be remembered that Mr. Henry Mayhew, having assembled a meeting of juvenile criminals, tried a similar experiment with equal success. *Vide* "London Labour and the London Poor."—*M. D. H.*

‡ Under good treatment the vast majority of convicts might be retained in prisons of inexpensive construction. Doubtless there is a small class who require strong walls, bolts, bars, and watchful guardians, but every individual of this class is well known to the police and to prison officers. Consequently there would be no difficulty in selecting them, and transferring them to some one gaol so constructed and guarded as that escape should be impossible. The first stage of their probation would be to work themselves out of this very strict confinement, and entitle themselves to return to ordinary prisons.—*M. D. H.*

Appendix, No. 1.

But on the one hand I could not help the want of money, and on the other I have always thought a frequent and intimate correspondence between the prisoners and persons of a different description outside objectionable, and I have thus had no choice.

"The establishment of one workshop, and the difficulties experienced in managing it, showed me both how to introduce more and to enlarge those already in operation, and I thus further gradually acquired the intimate conviction, that without the stimulus of some personal advantage accruing to themselves from their labour, it is difficult to obtain work even from the already skilled, and almost impossible to get the unskilled to learn. Repeated experiments convinced me of the practical lesson involved in this maxim of social economy, and that what neither severity of punishments nor constancy in inflicting them could exact, the slightest personal interest will readily obtain. In different ways therefore, during my command, I have applied this powerful stimulant, and the excellent results it has always yielded, and the powerful germs of reform which are constantly developed under its influence (*desarollarse a su impulso*), have, at length, fully convinced me that the most inefficacious of all methods in a prison, the most pernicious and fatal to every chance of reform, are punishments carried the length of harshness. The maxim should be constant, and of universal application in such places, not to degrade further those who come to them already degraded by their crimes. Self-respect is one of the most powerful sentiments of the human mind, for this reason, that it is the most personal (*el mas egoista*), and he who will not condescend, in some degree, according to circumstances, to flatter it, will never attain his object by any series of chastisements (*ningun linage de castigos*), the effect of ill treatment being to irritate rather than correct, and thus turn from reform instead of attracting to it.

"Moreover, the love of labour cannot be communicated by violent means (*vejamenes*), but rather by persuasion and encouragement, and although it is quite possible to obtain a specific amount of work from prisoners by the aid of the stick (as is sometimes recommended by high functionaries in this department), yet the consequence is necessarily aversion for an employment which involves so many penalties, and of which such a bitter recollection must always be preserved. And the moral object of penal establishments is thus also, in fact, defeated, which should be not so much to inflict pain as to correct; to receive men idle and ill intentioned, and to return them to society if possible, honest and industrious citizens.

"It was not till after making many experiments of severity that I came firmly to this conclusion, but ultimately I made it the base of all my operations on the minds of my prisoners, and the extraordinarily small number of recommittals to my prison, and the excellent health and perfect state of submission in which those confined in it have always been kept, seem to me to leave no doubt of its soundness."—pp. 9–12.

Mr. Hoskins was not the first, however, to call the attention of our countrymen to the prison at Valencia. It was visited by Mr. S. T. Wallis, an American traveller, in the year 1849, whose book was published in London in 1850.* I insert his description:

"Near the Puerta San Vincento, after a long walk and tedious search, we found an institution of which we had heard a good deal from our Spanish fellow-travellers. It was the *Presidio*, or Penitentiary. It is a large and well distributed edifice, once a convent of Augustine monks, and its complete, extensive, and admirable arrangement would do no discredit to any nation. I confess that I had no expectation of seeing any such thing in Spain. The Guide-book (Murray's) omits it altogether, though there is certainly nothing half so interesting, as indicative of national progress, within the limits of Valencia.

"The Augustine Convent was applied to its present uses in 1838. It now contains about 900 prisoners; and we were told that about 400, confined for minor violations of the law, had been released on the occasion of the Queen's marriage. They are distributed in different chambers, and dedicated to various branches of industry. Nearly all the trades are represented. Their fabrics of coarse cotton are admirable, and they work successfully in silks, velvets, and fine cutlery. There is a printing press, at which work is done, by contract, for publishers in the city. We went through it, and found the devils numerous and busy. Hard by was the bindery, which seemed to be in considerable demand. The infirmary was in capital order; clean, airy and well distributed; the apothecary's shop and laboratory, as nice and complete as could be desired. The dormitories were clean to a degree; each man's mat, mattress, and bed-clothing hanging over the spot on which he was to spread them at night. Kitchen, bakery, garden, every department we visited, was as thoroughly in order as the most vigilant system could make it. The discipline is mild but strict. There is not an armed man about the establishment, and the keepers, notwithstanding, are very few. The most trustworthy of the convicts have the immediate superintendence of their fellows. A lazy rascal is put to scrubbing and such menial work. A riot or quarrel is punished with a severe trouncing; obstinate and malicious conduct with solitude, the cell, bread and water. Few cases, however, occur requiring punishment, although certainly a set of more unmitigated rascals, physiognomically considered, never went unhung.† The

* "Glimpses of Spain; or Notes of an Unfinished Tour." By S. T. Wallis. London: Sampson Low, 1850.

† The opposite impressions, as to the countenances of the prisoners produced on the minds of Mr. Hoskins and Mr. Wallis, would seem to show that much reliance cannot be placed on physiognomical estimates made by casual visitors; yet it is beyond a doubt that a great improvement in the expression of the face is often very quickly caused by good training. At the Outcast Boys' Home in Belvidere-crescent,

The dread of being removed to the galleys or the chain gang, no doubt, keeps them in order. They seemed all of them to be well fed. I saw their bread, which is coarse, but light and sound. Meat is not allowed them every day. They are regularly tasked, day by day, and are paid for over-work. All under 18 are compelled, and the whole of them are encouraged to go to school, where they are taught reading, writing, accounts, drawing, and geography. I went into the school-room, which is a fine, spacious apartment, and obviously not gotten up for show, for it had all the marks of being constantly in use, and I saw some excellent specimens of writing and drawing where the scholars had left them. There is a post-office regularly kept in the establishment, and all who conduct themselves well are permitted to write occasionally to their friends, and to receive their replies. Indeed the villains seemed very happy, for they were at work in the courts, and even outside the walls, some of them, apparently, at their own sweet will, but without attempt or visible inclination to escape. Valencia, to be sure, is very well guarded, and it would not be easy for a fugitive to avoid detection long. A knowledge of this, and of the fact that the eye of the keeper is always upon them from some certain but unknown point, must have a very sedative effect upon their locomotive propensities. When at work they are permitted to converse in a low tone; this is an extremely rational concession to the social tendencies of human nature, which will always gratify themselves in some way, let the prohibition be as stringent and the penalty as severe as it may. A distinguished foreigner, who had dedicated great intelligence and powers of acute observation to the examination of prisons and their discipline, informed me lately, that he had never seen any contrivance for the prevention of inter-communication which the ingenuity of the convicts had not been able to evade. Questionable, then, as is the policy of perfect isolation, at the best, how idle is the attempt to realise it when failure is certain. The sensible guide who went with us through the *Presidio*, attributed a great deal of the docility of its inmates, and the frequent cases of moral improvement to the humane indulgencies which, within strict limits, were permitted by its discipline. I persuaded myself, how justly I know not, that to this moderate treatment was due the refreshing absence of a characteristic so painfully visible in our silent model prisons; I mean the pale, attenuated faces, whose whole expression glares on you through the bright, anxious eyes, condemned to fulfil the duties of sight, speech, and hearing. As we passed through the apartments, all the convicts rose, and stood uncovered. One of them, a comb-maker, had a tame rat upon his shoulder. He had made a collar for it, with little bells, which the creature wore; another had a pet bird fluttering around him. The manner of them all to the keepers was exceedingly respectful, that of the keepers considerate and kind. Our cicerone, who seemed to have both pride and pleasure in our approbation of what we saw, conducted us, finally, to a show-house, connected with a large shop at the gate, where there were exhibited, in glass cases, some specimens of elegant workmanship by the convicts; such as knives, pistols, embroidery, and fancy hardware. My companions and myself made our little purchases, and went away well pleased to have some memorials of an institution, so excellent, humane, and useful. As the gate closed on us, the last object that we saw was the old garden of the cloisters, with its orange and lemon trees, as fair and fragrant in the den of thieves as once within the house of prayer. A lesson there may be in this impartial bounty of our mother earth, to those whom men reverence, and those whom they despise. It teaches us, does it not, that with a common nature, there are none too pure and virtuous to spurn the claims of the wretched and the outcast. Claims to be held as fellow-creatures; claims to be brought back from sin and sorrow, if it may be; claims, that ignorance and want and temptation be remembered and considered and removed; claims, not to be cast off for ever, while charity can nurse the hope of their return."

It will be remembered that several of your witnesses have spoken to the unfavourable effect produced on criminals sentenced to penal servitude by their being deprived of the privilege of earning tickets-of-leave. The evidence of Captain Whitty, First Report, pp. 82-3, is worthy of great attention, pointing as it does most forcibly to the results of the policy which has been adopted as regards such convicts. These results have been settled discontent, breaking forth on one occasion into mutiny; a serious depreciation in the amount and value of convict labour, and a permanent relaxation in the endeavours of the men to gain the good opinion of the authorities. The testimony of Captain Whitty, speaking to facts so thoroughly within his own knowledge, requires no corroboration. But as a further and more complete illustration of the principles which gave rise to these facts, let me ask your attention to the statement of Colonel Monte-inos as to the disastrous consequences which have followed the more complete adoption of a similar policy in the treatment of convicts in the prisons of Spain. Up to a late period criminals enjoyed the privilege of improving their position while in gaol, and of shortening their terms of confinement by the exercise of industry and self-control. But now, by the new criminal code, these powerful stimulants are withdrawn, and that rapid deterioration in the conduct of the men

---

crescent, Hungerford Bridge, photographs are taken of the lads from time to time, which exhibit this amelioration in a very striking manner. "Mr. Driver showed me the entire system of works, but his specimens are capital, and his management of the boys wonderful; he is the Arnold of the Ragged School Managers; and I had rather see his photographs of pupils in different phases of reformation, from the 'raw material' to the six months' boy, than anything in the Royal Academy. Tell our friends of all religions to call on Mr. Driver, and no one, with heart, or head, or faith, can leave the refuge without feeling possibly smaller, but certainly wiser."—*Quarterly Record*, pp. xlii-iii; *Irish Quarterly Review, June* 1856.—*M. D. H.*

Appendix, No. 1.

men has ensued which might have been predicted by any person who had taken the trouble to master the rudiments of prison discipline.

Let me indulge the hope that the experience of Munich and Valencia, under Obermaier and Montesinos, will encourage all who have the requisite authority so to act, to pursue a similar course, or, at all events, a course founded on similar principles, to that which I learn from the evidence of Captain Crofton, he has inaugurated in Ireland. In particular I refer to the treatment of such convicts as "by prison-character and length of servitude are thought eligible for tickets of license, and who are removed either to Smithfield or Fort Camden, according to their class, to be there detained until they can procure satisfactory offers of employment, or give some sufficient guarantee that they have the means of earning an honest livelihood (for which purpose every reasonable assistance and facility is afforded to them) when they are released on license. During their detention their reformation and good intentions are further tested by giving them increased liberty of action, and by employing them as far as possible like free labourers," page 142. By such treatment I entertain a confident expectation that the doubt which has pressed on the mind of Sir George Grey as to the possibility of ensuring reformation by the discipline of a prison will be removed. "The reason," he says, "why a ticket of leave cannot fairly be regarded as a proof of reclamation is obvious. As long as a man is immured in a prison, where he is denied the opportunity of getting drunk, and of associating with those who might lead him into temptation, he is evidently so circumstanced that it is impossible for him to afford us the means of arriving at a satisfactory conclusion as to whether his repentance is genuine or affected."* The position of the Right honourable Secretary is impregnable. So long as a man is denied all freedom of action, it is impossible he should acquire the habit of self control. And even if he could acquire it, he would have no means of manifesting the possession of this great faculty. The course, then, which reason seems to point out is, from time to time as rapidly as his progress will permit, to relax the coercion which is exercised over him; to confer upon him by degrees the guidance of his own actions, to cast upon him the consequences of his failures in the art of self-government; and on the other hand to permit him to enjoy the fruits of success whensoever he achieves it. Convicts whose training has been so adjusted as best to fit them for the enjoyment of liberty will find the change from the last stage of restraint to perfect freedom so slight as to diminish almost to nothing the danger of relapse. And in the frame of mind in which the prisoner will then be found, it will be by no means difficult (if it should be thought desirable) to induce him to stay under the friendly employment of the prison authorities until he has earned a certificate of good conduct subsequent to the termination of all control over his person.

In conclusion, permit me to avail myself of this opportunity of thanking you and the Committee for the indulgence with which you listened to that part of my evidence which consists merely of opinion. And if it should be found that the language which I have sometimes used savours of over-confidence in the conclusions at which I have arrived, I ask for your favourable interpretation of my words, assuring you that no man feels more deeply convinced than I do myself that much remains to be learnt and unlearnt by every student of the science which the Committee has been with so much labour and, I trust, with corresponding success, endeavouring to promote.

I have, &c.

To the Right Hon. M. T. Baines, M.P., Chairman of the Transportation Committee.

(signed) *M. D. Hill.*

---

QUESTIONS concerning the STATE PRISON at *Munich.*

1. Is Governor Obermaier still at the head of the Munich State Prison?

2. Can any statistics be procured which will show the numbers or proportions permanently reclaimed, and those relapsed or re-committed?

3. Is the prison of Kaiserslautern still conducted on the principles established by Governor Obermaier?

4. If there have been any change, either there or at Munich, please to state both the cause and the consequences of such change?

5. Have the principles and plans of Governor Obermaier obtained imitators in Germany, or elsewhere?

6. Please to specify the places, and state whether they have been successful?

7. Have industry and good conduct any operation in shortening imprisonment?

8. What are the average annual earnings of each prisoner?

9. What is the cost of each prisoner for food, clothing, together with his quota for rent and repairs, and for salaries, &c.?

10. What

* Times, April 4, 1856.

10. What is the proportion between prisoners and officers, including under the term officers all who are engaged on account of the prisoners in and about the prison?

11. Are the sentences for long terms, as compared with the sentences in England?

12. Is the system approved by those who are considered to understand the subject?

13. What is the provision for instruction, religious and secular?

14. Is the discharge in all cases absolute, or sometimes conditional, like our tickets-of-leave?

15. Is there any system of patronage or guardianship after liberation?

16. Are there *Sociétés de Patronage* in Bavaria, similar to those in France and other continental countries, whose members undertake to watch over discharged prisoners, and young persons leaving reformatory schools?

17. If so, how are they organised?

---

## STATE PRISON AT MUNICH.

Answers to Questions put April 1856.

1. The Councillor of State, Mr. Obermaier, is still at the head of the state prison at Munich.

2. Every year a return is made by the authorities, indicating individually such of the liberated prisoners as are, after a period of one year from the time of their discharge, to be considered as reformed, such as are still of doubtful character, and those that have relapsed into crime.

From the penitentiary at Munich were discharged—

In the year 1850, 132 prisoners: 88 of these were reformed, 26 still doubtful, 11 relapsed.

In the year 1851, 70 prisoners: 52 of these were reformed, 7 still doubtful, 6 relapsed.

In the year 1852, 36 prisoners: 23 of which were reformed, 9 still doubtful, 1 relapsed.

In the year 1853, 28 prisoners: 18 of which were reformed, 4 still doubtful, 4 relapsed.

In the year 1854, 32 prisoners: 25 of which were reformed, 2 doubtful, 4 relapsed.

The rest of the discharged prisoners were either in foreign parts at the time the returns were made, or had emigrated, or had died, or their places of abode could not be found out.

3. The Central Prison at Kaiserslautern is still managed and governed according to Mr. Obermaier's principles, in the way which he himself established there.

4. The answer to this point has been given in the answer to the preceding question, as neither at Munich nor at Kaiserslautern has any change taken place.

5. Mr. Obermaier's principles have been carried out in Bavaria in all the prisons for male offenders; and have also more or less been adopted in other German States, as well as in foreign countries.

6. Modena is here especially to be mentioned; but how Mr. Obermaier's principles have answered in other countries is not known here.

7. According to the laws of Bavaria, industry and good conduct shorten the terms of imprisonment, according to the following rule:

The criminal sentenced to "penal servitude for an unfixed period,"—*see* the answer to the 11th question,—may expect his pardon after 16 years' imprisonment, if during his incarceration, or at any rate for 10 years, he have shown continually extreme industry, not have incurred punishment for malice or insubordination, and otherwise have given evident proofs of his reformation.

Offenders sentenced to "fixed terms of penal servitude," or to "the house of correction," can, under the same conditions, shorten their terms of punishment, and may expect that mercy will be extended to them after having been imprisoned three-fourths of their time.

8. In the Penitentiary of Munich every prisoner has earned in the six years from 1850 to 1855, an average of 18 *fl.* 50 *xr.* (1 *l.* 12 *s.* 11½ *d.*) per annum, deducting all expenses connected with and arising from his employment.

It has to be stated here that this average account includes the sick, as well as those which are either unable to do any work, or whose capability for work is but limited: and that the work about and connected with the establishment, such as sweeping, washing, cooking, cutting the wood, mending, cleaning the house and yards, &c., which is entirely done by the prisoners, has not been taken into account.

Appendix, No. 1.

9. In the prison at Munich the average yearly expenses during the above-mentioned six years were, for every prisoner,—

| | *fl.* | *xr.* | £. | *s.* | *d.* |
|---|---|---|---|---|---|
| For maintenance | 68 | 18 | 5 | 19 | 6 $\frac{9}{30}$ |
| For dress and bed | 13 | 3 | 1 | 2 | 10 $\frac{1}{2}$ |
| For heating and lighting | 6 | 30 | – | 11 | 4 $\frac{1}{2}$ |
| For salaries of every description | 16 | 16 | 1 | 8 | 5 $\frac{19}{30}$ |
| The entire expenses per prisoner amounted to | 115 | 53 | 10 | 2 | 9 $\frac{33}{60}$ |

But in reference to the above estimate three points must be remembered:

1st. In the years 1853, 1854, 1855, the prices of provisions were exceedingly high.

2dly. The prison at Munich is an old government building, and was handed over to the prison authorities without charge; no notice can therefore be taken of the amount of rent, and of the annual interest on the capital laid out in the arrangements of the building, and its adaptation to its present use.

3dly. The expenses of keeping the prison in repair are not borne by the institution, but are provided from other sources.

10. The officers appointed at the Penitentiary at Munich are,—

| | |
|---|---|
| One director. | One physician. |
| One treasurer. | One surgeon. |
| One legal officer. | One bailiff or master of the house. |
| One clerk. | Two workmasters. |
| One book-keeper. | One gardener. |
| One clergyman. | Twenty gaolers. |
| One teacher. | A picket of twenty soldiers. |

The number of prisoners amounts continually to 550–600.

11. The criminal laws of Bavaria include the following punishments of personal restraint:

1st. The sentence to the chain, which can only be awarded for life. The criminal sentenced to this punishment is fettered on both his feet by a long chain, to which a heavy iron ball is attached.

2d. The punishment of penal servitude, which is never awarded for life, but either for a fixed number of years, or for an unfixed period.

The criminal sentenced to penal servitude for a time not specified may, after 16 years' imprisonment, expect his liberation on the conditions named under s. 7.

The sentence of penal servitude for a definite period may not be awarded for more than 20, nor for less than eight, years.

The criminal sentenced to penal servitude carries a lighter chain.

3d. The sentence to the house of correction, which cannot be awarded for more than eight, nor for less than one year.

4th. Common imprisonment, which can be given for any period not exceeding two years.

It is not known here if these punishments of personal restraint can be compared to those given in England.

The prison at Munich confines only offenders sentenced either to the chain or to penal servitude, or to the house of correction for more than four years.

12. In Bavaria, as in the whole of Germany, there are two parties, which hold opposite opinions on the subject of prison discipline; the one advocating the method that allows intercommunion among the prisoners, and the other adopting the principle of solitary confinement. Mr. Obermaier's plan is approved of by the former, and disputed by the latter.

13. At the prison of Munich, in which only Roman-catholic offenders are confined, a special clergyman is appointed, who officiates at regular divine services, gives religious instruction and the holy sacraments to the prisoners, and who otherwise, in concert with the director, labours for their moral improvement and reformation.

The prisoners not too far advanced in age receive elementary instruction, to which end a special teacher is appointed.

There are also books on religious and generally useful subjects belonging to the establishment, in the reading of which the prisoners can fill their spare time in an appropriate and useful manner.

The instruction in the different branches of work introduced into the establishment is given by the appointed masters of the work, and, under their direction, by the more clever prisoners.

14. The discharge of the prisoners is in all cases absolute, except under very particular circumstances; for example, in cases of illness or urgent family affairs, where the special mercy of the King permits, though but for a short time, the liberation of a prisoner.

Arrangements which can be compared to the tickets-of-leave do not exist in Bavaria.

15. Relative

15. Relative to the care of the liberated prisoners, and to the watch over them, the laws of Bavaria determine that—

1st. The parish in whose district a prisoner has his home is obliged to care for his maintenance and his employment after he has left the prison, and six weeks previous to his discharge is made acquainted with it.

2d. The prisoner, after his discharge, is put under the especial surveillance of the police.

In the case of those who had been punished with confinement in the house of correction, or with minor punishments of personal restraint, this surveillance is exercised only in those cases where the prisoner, by his mode of life, or by his character or conduct, has created the impression of being especially dangerous to society.

16. Bavaria has societies of this character.

17. The organization of these societies is generally the following:—

Every province has one of these societies, with a managing committee in its capital, called the Provincial Committee.

As a general rule, every district in the province has another committee, termed the District Committee.

The members of the society resident in the district elect the district committee, and the district committees elect the provincial committee.

The committees are chosen for three years.

From among their own number the members of the committees elect a president, a secretary, and a treasurer.

The business of the district committee is to accept the offers for membership to the society, to manage the finances of the society in the district, and to do everything that may be necessary for the reformation of the discharged, prisoners of their district, and for the assistance to be rendered to them.

Six weeks before a prisoner is discharged, the governor or director of the prison gives a a notice thereof to the district committee in question, accompanied by full particulars as regards person, religious profession, education, and trade of the prisoner, as well as regards the hopes which may be entertained of his reformation, and the sum of money he brings from prison, and the reasons which make the assistance of the society desirable.

The district committee then undertakes the support or employment of those discharged prisoners, whom it deems proper objects for the exercise of its benevolent intentions, and does so with special regard to all the particular circumstances connected with each case, and exercises, at the same time, a perpetual personal supervision over all the persons it may have taken under its care.

The district committee is, by its labours, in constant communication with the police authorities and other district committees, with a view to mutual assistance.

Every quarter the district committee sends an account of the state and the activity of the society in the district to the provincial committee.

The provincial committee annually compiles a financial and general statement of the position of the society in the province.

Every district committee gives a certain share of its income to be disposed of by the provincial committee.

The provincial committee divides these contributions, and any other income it may enjoy, amongst those district committees which require assistance, or amongst other kindred institutions.

Of late, the attention of these societies has chiefly been directed to the establishment of asylums intended to receive those discharged prisoners who, at the time of their discharge, do not appear to be fully reformed, or are unable to find elsewhere immediate proper employment and a home.

---

## THE PRISON AT VALENCIA.—Questions and their Answers.

Q. 1. Is Colonel Montesinos still at the head of the prison at Valencia?

A. 1. Colonel Montesinos is not now at the head of the prison of Valencia, having relinquished his office. By the system which he established, the prisoner was made aware, that by behaving well, by applying himself to the acquisition of some art or trade, and by good moral conduct, he would ameliorate his present treatment, and improve his future position; and the desired result had been obtained of diminishing to two per cent. the annual recommitments, which had formerly amounted to 35 per cent. The publication of the new penal code, which converted sentences of imprisonment for a long period of years into imprisonment for life, and which deprived the Governor of the prison of all power of alleviating the condition of the convict, however much he might deserve it, or however desirable it might be as a stimulus to the others, took from the unhappy prisoner all hope that his industry or good conduct would avail him anything. Unconsoled by the hope of improving

Appendix, No. 1.

improving their lot, Colonel Montesinos observed that the convicts lost their energy, a feeling of despair spread among them, and their ardour in acquiring a trade abated; indeed, that they continued to work at all was the result of discipline and consequent subordination, but they laboured without zeal, without any love of work, and without the hearty good-will they had exhibited before the introduction of the new penal code. Finding no means by which he could counteract this terrible evil, which utterly destroyed his system, Colonel Montesinos resigned his appointment.

He had, moreover, another reason, namely, that the promulgation of the said code was followed by the appointment of incompetent persons as officers, who, faulty in character, and having other unfavourable qualities, could not produce good results.

In such an enterprise as this, those who are in command must have received a regular education, be of correct behaviour, and they must be irreproachable in conduct and morals; for those who come under their care having sinned through lack of these very qualities, and it being the object of the law to reform, while it punishes, he whose duty it is to foster them must himself possess the principles whose practice he has to enforce, for if he be ignorant of them he will be unable to procure their adoption. It is worthy of remark here, that according to the observation of Colonel Montesinos, there are but few persons in Spain who are criminal from natural depravity, but the greater number fall into crime through want of education and good principles.

He has reclaimed many convicts who had received very severe sentences, who are now settled in their homes, working at their trades learnt in the prison of Valencia; they are excellent in their domestic relations, and have become examples of good conduct.

Q. 2. Can any statistics be procured which will show the number or proportion permanently reclaimed, and those relapsed or recommitted?

A. 2. This question is partly answered in the former reply. As the data for preparing the desired statistics are in the archives of the prison, and are not at hand, they cannot be given here. The reduction in the recommittals of those who had undergone their sentences in the prison of Valencia was so striking, that it was remarked by the tribunals of the province, who brought it under the notice of government.

Q. 3. Is the prison of Valencia still conducted on the principles established by Colonel Montesinos?

A. 3. The same material organization remains, but the spirit of his internal arrangements has disappeared since the Colonel departed, to such a degree, that in the workshops scarcely any work is done, and what is accomplished is badly performed; the remarkable cleanliness and order which was formerly observed has disappeared; desertions, then so exceedingly rare even of those who worked outside the walls, now amount to a most disgraceful number, so that there have been as many as 43 convicts at once under heavy punishment for attempts to escape.

Q. 4. If there have been any change, please to state both the cause and the consequences of such change?

A. 4. This question is answered in the preceding replies.

Q. 5 & 6. Have the principles and plans of Colonel Montesinos obtained imitators in Spain? Please to specify the places, and state whether they have been successful?

A. 5 & 6. There have been no imitators in Spain of the penal system of Colonel Montesinos, but as Inspector-general of all prisons in the kingdom, he established therein his system, which produced more or less favourable results, according to the character and disposition of their respective governors. Some improvement, however, was visible in all; workshops were introduced which were profitable to the treasury, and, above all, the moral benefit to the convicts was very apparent. That the good results were not more universal was owing to an impediment, which, in spite of his utmost efforts, the Colonel was never able wholly to overcome. It arose thus: when re-organizing any establishment, he laid down a plan in accordance with his penal system, and himself put it in execution; during his stay there, all went on well, and everything got into its proper place, but as soon as he went away, the imperfect regulations which the general Board of Prisons did not care to reform, were brought back into force, and confusion again prevailed. Nevertheless the doctrines of Colonel Montesinos remained, and gradually, with much labour on his part, regained their former ascendency. The effects they produced were always good in a greater or less degree, and brought some revenue to the Treasury.

Q. 7. Have industry and good conduct any operation in shortening imprisonment?

A. 7. Before the promulgation of the new penal code, the industry and good conduct of the prisoner did operate to diminish his imprisonment; the maximum of the remission which they could gradually effect being a third part of the sentence, and no more. Guided by the strictest principles of justice and indubitable information, the good produced by this regulation was immense. The public, already avenged, was uninjured by it; it afforded a stimulus to other convicts, who strove to win the same reward; and, besides these obvious advantages, the Treasury saved the cost of supporting the prisoners who had gained their freedom under that wise provision.

Q. 8. What are the annual average earnings of each prisoner?

A. 8. This depends on his greater or less disposition to labour, and upon the nature of the occupation which he may adopt, as some are more profitable than others. There have been prisoners who had earned as much as 2,000 reals,* or more, at the termination of their imprisonment.

Although it is not asked, I will explain the mode of payment pursued by Colonel Montesinos. He never paid by the day, but by the piece, when it had been examined and approved. Every trade had its tariff for the number of pieces into which its work could be divided; these were credited every week to the respective accounts of each workman, being entered in a little book, which he kept himself, and a similar entry was made in the general book. The half of what they earned went to the State, the other half was divided into two parts; one, or the fourth part of the whole, was placed in the savings bank, in order that, at the end of his imprisonment, the convict, to whom it was punctually paid, might have it for the expenses of his journey, (another source of economy to the State), and for establishing himself in any place where he might decide to live; the remaining fourth part was paid into his own hands, that he might obtain tobacco, the only indulgence in which he was permitted to spend his wages, or purchase food, as the establishment supplies only two meals a day, or that he might transmit it to his family, if in want.

Q. 9. What is the cost of each prisoner for food, clothing, together with his quota for rent and repairs, and for salaries, &c.?

A. 9. For food, clothing, light, fuel, and medical attendance, the cost is 60 maravedis (4*d.*) per diem; two reals (4$\frac{1}{2}$*d.*) per diem cover the whole expense of each prisoner, including the items already enumerated, besides repair of clothes, washing (which they do themselves), shaving, furniture, entrance, and the elemental school.

Repairs done to the building cost very little, for as there are always masons, smiths, carpenters, and stonecutters among the convicts, the sum that has to be divided among them is the price of materials alone, and even of these, lime, plaster, tiles, and bricks may be made by the prisoners; this depends upon the will and zeal of the governors of the different prisons.

Q. 10. What is the proportion between prisoners and officers, including under the term officers all who are engaged on account of the prisoners in and about the prison?

A. 10. For each hundred prisoners are required one capataz (overseer), chosen from among retired serjeants in the army, four cabos primeros, and four cabos segundos, selected from the prisoners. When there are 200 convicts, the superintendent is a subaltern officer, having under him capataces and cabos, and these are called a detachment. When the above number is exceeded and amounts to 400 prisoners, the establishment is denominated a prison of the second class, having a comandante, chosen from officers of high rank (Gefes del Egercito);† a mayor, from captains in the army, who takes charge of the accounts, an ayudente, from the subaltern officers, and for each hundred men the capataz and cabos already mentioned. There are besides, in some provinces, where the number of prisoners is greater, prisons of the first class with the same staff of officers; and in these two classes of establishments there is also a warder (furriel), a chaplain (capellan), and a surgeon (medico-cirujano). It will cause surprise that the criminals themselves should be employed as cabos, and should be permitted to exercise authority, but the experience of many years has proved the utility and economy of the arrangement; its utility is shown in this, that (selected with due discretion) the men are thoroughly acquainted with their companions, with whom they live in constant intercourse; they understand their predilections and desires, are aware of their propensities, and foresee their actions, and thus are frequently able to avert the necessity for punishment. As they obtain consideration, besides deriving benefit in other ways, from their office, they endeavour to retain it by performing its duties well. Moreover, this arrangement affords a stimulus to the rest to behave well, that they may in their turn be promoted. From among these latter are chosen the cabos segundos, and from these, according to the proofs of reformation and of repentance they give, and provided they are under light sentences for only slight offences, are selected individuals to replace the vacancies which may occur among the cabos primeros.

These details are necessary that the advantage and economy of employing the convicts as inferior officers may be thoroughly understood. Colonel Montesinos, in his written Memoirs says, when explaining and advocating this measure, "the commandant who knew how to choose his officers would have no untoward events to lament in his prison," which is proved by the fact that during the 20 years of his governorship of the prison of Valencia he never needed an armed force for the guard within the walls, nor even for that which accompanied the gangs of prisoners who worked outside, amounting in number often to 400 men, for whom the convict officers were quite sufficient, and among whom there were never either plots‡ nor desertions.

The

* £.20. A real is worth about 2$\frac{1}{2}$*d.*; 100 reals may be reckoned as equal to £.1.—*Tr.*

† Officers of a certain rank in the army claim the appointment of comandante as of right.—*Tr.*

‡ The word here used in the Spanish MS. may possibly mean "complaints."—*Tr.*

Appendix, No. 1.

The salaries of the officers which were overlooked in a former answer are here stated :—

| | *Reals.* | | £. | *s.* | *d.* |
|---|---|---|---|---|---|
| Comandante | 16,000 | or | 160 | – | – |
| Mayor | 10,000 | „ | 100 | – | – |
| Ayudente | 6,000 | „ | 60 | – | – |
| Furriel | 4,000 | „ | 40 | – | – |
| Capellan | 3,300 | „ | 33 | – | – |
| Medico Cirujano | 4,400 | „ | 44 | – | – |
| Capataz | 3,000 | „ | 30 | – | – |
| Cabo 1° | 182 | about | 1 | 16 | 5 |

In prisons of the second class, the salary of the

| | *Reals.* |
|---|---|
| Comandante is | 12,000 |
| Mayor | 10,000 |
| Ayudente | 5,000 |

and 2,000 reals are allowed, in addition to the comandante and mayor, for counting-house and printing expenses, &c. &c.

Q. 11. Are the sentences for long terms,* as compared with those in England?

A. 11. Not knowing whence these questions have been sent, the comparison cannot be made. The heaviest sentences are for 20 years, or perpetual imprisonment in chains (*cadena perpetua*); but there are criminals who have received two or three sentences to *cadena perpetua*, besides several years of imprisonment, for different offences committed by the same person.

Q. 12. Is the system of Colonel Montesinos approved by those who are considered to understand the subject?

A. 12. It is not only approved by those who understand the subject, but praised for its simplicity, for its proved advantages, ascertained results, and marked economy. Among the many documents which record and corroborate this statement, are 22 foreign publications which regard it as the best system of prison discipline. Of these one only is English (notwithstanding the infinite number of English persons who have visited the prison at Valencia), written by Captain Maconochie, R.N., K.H., who describes it, and its internal organisation, with great care, minuteness, and accuracy.

Q. 13. What is the provision for instruction, religious and secular?

A. 13. Instruction is given in the Apostolic Roman-catholic religion, the sole faith of the country, in reading, writing, arithmetic, and in the trade which the convict voluntarily selects among those established in the prison, of which there were 41 when Colonel Montesinos was governor. In his time, too, there was an evening school for linear drawing, applicable to trades.

Q. 14. Is the discharge in all cases absolute, or sometimes conditional, like our ticket-of-leave?

A. 14. On liberation the convict is still subject (if the sentence was so expressed) to the surveillance of the authorities in the place where he may fix his residence, for a certain number of years appointed by the tribunal by whom he was sentenced.

Q. 15. Is there any system of patronage or guardianship after liberation?

A. 15. There is no other system of patronage or surveillance for those who have been under punishment than what is stated in the preceding answer.

Q. 16. Are there *Sociétés de Patronage* in Spain similar to those in France and other continental countries, whose members undertake to watch over discharged prisoners and young persons leaving reformatory schools?

A. 16. There are neither any such societies in Spain, nor are there reformatory schools for young persons.

Q. 17. If so, how are they organised?

A. 17. This question is answered in the preceding reply.

* The translator of the questions into Spanish put this sentence in another form, omitting, by an oversight, to mention England.—*Tr.*

CORRESPONDENCE on the Application of the TICKET-OF-LEAVE SYSTEM to CONVICTS adjudged to PENAL SERVITUDE. Appendix, No. 2.

A MEMORIAL in favour of , sentenced at the Birmingham sessions to penal servitude for the term of 10 years, having been referred from the Home Office to the recorder for his opinion, was returned with the following letter, the first of a long correspondence on the subject above mentioned, in which the topic of the continuance of the system, as applied to convicts to be sentenced to transportation, is incidentally touched upon.

---

LETTER to Sir *George Grey* from *M. D. Hill*, Esq.

Heath House, Stapleton, near Bristol,
Sir, 30 October 1855.

IN answer to Mr. Waddington's letter, under date , asking for my opinion on the case of , who pleaded guilty to an indictment for larceny, after a prior conviction for felony at the Birmingham sessions, held in January 1854, and was sentenced by me to 10 years' penal servitude, I have the honour to transmit for your information two reports by Inspector Glossop. The first contains a copy of the depositions, by which it appears that the prisoner lost no substantial advantage by pleading guilty. By the second report it appears that no imprisonment was likely to have any good effect upon him, unless he could be made to feel that it would either be continued for a very long period, or that to procure his discharge before its expiration he must become reformed; and if I had answered Mr. Waddington's letter immediately on its receipt, I should have stated it as my opinion that there was no ground for disturbing the sentence. But I now learn from Colonel Jebb's letter to the editor of the "Times," published in that journal on the 18th instant, your intention to be that, as a general rule, every convict shall serve out the whole period of his sentence of penal servitude.

As to what circumstances will be admitted as an exception to this rule, Colonel Jebb is silent; but the whole tenor of his communication forbids me to hope that good conduct will be considered one of them, since the provisions contained in the 16th & 17th Victoria, for giving effect to good conduct with the least danger to the public safety, viz., by granting the convict a licence revocable at your pleasure, are, it would appear, to have no operation in cases of penal servitude.

In the belief, then, that the exceptions to which the colonel adverts are only those which apply to all punishments, as danger to life from confinement, the discovery of mitigating facts, and so forth, I am driven to the conclusion that penal servitude is to be considered as neither more nor less than imprisonment, in the common acceptation of the term. Acting upon this view, I must not only recommend, but earnestly entreat, for a very large remission of the prisoner's punishment.

An imprisonment of 10 years, which no repentance, however sincere—no improvement in habits and dispositions, however great and obvious—can abridge, is a sentence which I certainly could not have brought myself to pronounce upon the prisoner for the offence which he has committed, even though his character were, if that be possible, worse than it is.

I have, &c.
(signed) *M. D. Hill.*

The Right Hon. Sir George Grey, Bart.,
Home Department, Whitehall.

---

Sir, Whitehall, 16 November 1855.

I AM directed by Secretary Sir George Grey to acknowledge the receipt of your letter of the 30th ultimo, reporting on the case of , and to acquaint you that, under the circumstances, Sir George Grey proposes advising Her Majesty to commute this prisoner's sentence to penal servitude for four years.

With reference to that part of your letter in which you state that you have only recently been made aware that it was the intention of the Government to enforce sentences of penal servitude in their integrity, Sir George Grey desires me to call your attention to the 3d and 4th sections of the 16 & 17 Vict. c. 99, by which it will be seen that the sentences of penal servitude authorised by the Act were, with the exception only of life sentences, to be awarded instead of sentences of transportation for much longer terms, which, if the Act had not been passed, might have been inflicted; the intention being to substitute for the several terms of transportation terms of penal servitude nearly corresponding in their duration with that portion of the respective terms of transportation which, before the passing of the Act, was spent in imprisonment in this country, or in labour upon public works, followed by the grant of a ticket-of-leave taking effect in a colony. If, therefore, as a general rule, the same remission of punishment were to be granted in the case of sentences to penal servitude as in those of transportation, the intention of the Legislature would be frustrated, and a sentence of penal servitude would not be equal, as it was intended it should be, to the corresponding sentence of transportation named in the Act.

In the case of , Sir George Grey was bound, in the absence of any in-

Appendix, No. 1.

formation to the contrary, to presume, that if the Act 16 & 17 Vict. c. 99, had not been passed, you would have sentenced the prisoner to transportation for a term exceeding 15 years (the usual term above 15 being 20). If a large remission of the corresponding term of 10 years' penal servitude to which he was actually sentenced had been granted without any special reason, the prisoner would have been in a far better position than if the sentence had been one of 20 years' transportation, and the object of the judge in passing the sentence might have been improperly defeated.

Sir George Grey does not concur in your conclusion that, because for the reasons above stated a different practice is adopted as a general rule with respect to prisoners sentenced to transportation and to penal servitude, "no repentence, however sincere—no improvement in habits or disposition, however great and obvious," can tend to abridge a long sentence of penal servitude. A recommendation of any prisoner from the prison authorities, forwarded on such special grounds, and supported by satisfactory proof, would receive the attention to which it is undoubtedly entitled.

I am to add, that if you have passed other sentences under the same impression, and with the same view with which you sentenced to 10 years' penal servitude, Sir George Grey will be quite ready to entertain any recommendation you may now think it right to make respecting prisoners so sentenced.

I am, &c.

M. D. Hill, Esq. (signed) *W. Massey.*

---

Heath House, Stapleton, Bristol,

Sir, 4 December 1855.

I HAVE the honour to acknowledge the receipt of Mr. Massey's letter of the 16th ultimo, and to thank you for the explanation afforded by it of the grounds on which the department so construes the 16 & 17 Vict. c. 99, as to exclude convicts adjudged to penal servitude from the privilege of tickets-of-leave. Being, however, unable, after an anxious consideration of the subject, to arrive at the same conclusion, I must beg permission to lay before you the reasons for my dissent.

It will be, I presume, admitted, that if the Act be read without reference to the practice of the Home Office, tickets-of-leave would appear to be as clearly the privilege of convicts adjudged to penal servitude as of those adjudged to transportation. By sections 3 and 4, the punishment of penal servitude must, in certain cases, and may be in all, substituted for transportation. And by section 9, a ticket-of-leave may be granted "to any convict now under sentence of transportation, or who may hereafter be sentenced to transportation, *or to any punishment substituted for transportation by this Act.*"

Reading, then, the 3d, 4th, and 9th sections together, I find the Legislature to declare by express words, that the licence or ticket-of-leave is just as applicable to penal servitude as to transportation; not a shadow of distinction being indicated between the treatment of cases falling under one of these two heads, as compared with that of cases falling under the other. And I search in vain throughout the remainder of the Act for any line or word contradicting or obscuring the plain meaning of the provisions contained in the 9th section. It is, however, suggested, that the true meaning of the Act is to be sought by comparing the provisions of the 3d and 4th sections with the practice of the Home Office as regards the treatment of convicts adjudged to transportation before the passing of the Act in question. But here, Sir, I meet with an insuperable difficulty. Sitting in a court of justice, to put a judicial interpretation on a statute of the realm, I apprehend I should violate my oath if I did not shut my eyes against the light to be derived from such a source. Imperative rules of construction confine the judge when seeking for the legal effect of a statute within very strict limits. He may receive aid when it is required, either from Acts *in pari materiâ*, or (though with greater reserve) from other portions of the law of the land. But rules of practice, which Ministers of the Crown have laid down for their own guidance, and which they may change to-morrow, are beyond these limits, and their existence cannot be matter of judicial notice. Otherwise, an alteration in the practice might, without the consent of Parliament, alter the law itself. As regards the statute now under consideration, another remark suggests itself, which is, that in seeking to construe an Act in itself clear, by the importation of extraneous matter, we should fall into the error of first creating the doubt by means of that extraneous matter which we afterwards use in order to dispel it.

Let me now suppose these obstacles surmounted by assuming, contrary to the fact, that the practice had been recited in the preamble, which on that hypothesis would run thus: "Whereas it is expedient to substitute for terms of transportation, terms of penal servitude nearly corresponding in their duration with that portion of the respective terms of transportation which heretofore has been spent in imprisonment in this country, or in labour on public works, followed by the grant of a ticket-of-leave taking effect in a colony: be it enacted," &c. Can it be said that the insertion of these words into the preamble would make any change in the legal construction of the Act? The argument in Mr. Massey's letter is, that the terms of penal servitude having been shortened until they are nearly coincident with the punishment actually inflicted under the longer terms of transportation, it must be held that such lesser terms ought to be carried into effect in their integrity, and that consequently they do not admit of mitigation by licence. Would not the first of several answers be, that if the inference drawn from the supposed preamble, taken in connexion with the 4th section, disclosed the real intention, the 9th would have been limited

limited to transportation, and instead of formally including penal servitude would as formally have excluded it?

But secondly, it would be urged that the 4th section, read either with or without the preamble, is not repugnant to the 9th, although, if such repugnance did exist, the express enactment of the 9th must prevail.

In support of this argument it might be urged that the institution of licences must have had its origin in the obvious advantage of giving to convicts encouragement to labour in the work of self-reformation, by making such conduct tell on their discharge from confinement, and that consequently the reason for granting licences applies just as strongly to convicts adjudged to penal servitude as to those adjudged to transportation. Attention would be called to that provision of the 9th section which regards convicts sentenced to transportation after the passing of the Act; and why, it would be asked, if these persons, who must of necessity be great offenders, are within the privilege of tickets-of-leave (as they surely are), ought the Legislature to be held, in opposition to its own express language, to have intended that the minor offender should be excluded from the encouragement held out to the more guilty?

Finally, it would be argued that all inference in favour of the presumed intention of the Legislature to exclude penal servitude from the privilege of a licence, derivable from the mitigation of such punishments as are mitigated in the 4th section, is rebutted by the fact, inexplicable on such a theory, that the severest of all the punishments enumerated in that section, viz., transportation for life, is not only not mitigated, but is so augmented in severity as to have become to many persons more terrible than death itself; since if the construction against which I respectfully contend is to prevail, transportation for life, which is to be commuted into penal servitude for life, will become perpetual imprisonment.

There is yet another difficulty which must not be passed over: Mr. Massey's description of the treatment which convicts underwent up to the passing of the statute only applies to such as were actually transported. But the larger proportion, *i. e.*, convicts adjudged to transportation for seven years, were kept at home, and unconditionally discharged after a detention of varying length. The Earl of Aberdeen (Hansard, vol. 127, p. 34), and the Duke of Newcastle (p. 56), speak of it as lasting for two or three years. I must then be permitted to ask how any parallel can be established between the treatment of convicts sent abroad, and those detained at home, so as to make one set of new terms of penal servitude equivalent to the prior treatment of both these classes? And again, with regard to the latter class, how am I to consider the new term of four years of detention as "nearly corresponding" with the two or three years of the former practice?

I submit, then, for the consideration of the department: first, that the Act, as construed by established rules, confers the capacity to receive a ticket-of-leave just as much on convicts sentenced to penal servitude as on convicts sentenced to transportation; and, secondly, that if notice could be taken of the practice of the Home Department adverted to in Mr. Massey's letter, for the purpose of putting a construction on an Act of Parliament (a legal impossibility), that construction would remain exactly the same as before. Perhaps, however, it may be further objected that the Act, so far as it relates to the issue of licences, is only an enabling statute, and does not make it imperative on the Crown to grant a ticket-of-leave in any particular case, and that consequently, even assuming mine to be the right construction, it is entirely in the discretion of the Secretary of State to give or refuse them to persons adjudged to penal servitude. If such a doctrine were advanced, I should beg leave to express my doubts of its soundness. As to the propriety of admitting the class, the Legislature has spoken its will. As to the propriety of admitting any particular member of either that or the other class, the Legislature has left the Crown to the exercise of its discretion, in confidence that such discretion will be so exercised as not to defeat the intention of the Act, which I submit would be defeated if a convict were excluded simply because he was a member of a particular class, when the Legislature has enumerated his class among those rendered capable of enjoying the privilege.

I will now, Sir, with your permission, support my reading of the statute by reference to the views of its meaning taken in Parliament. The Bill being in Committee in the House of Commons, Sir John Pakington said he "would suggest the substitution of the words 'period of imprisonment' for 'penal servitude,' because if by the latter words the Government meant to distinguish that punishment which was to be a substitute for transportation, then larceny, which could not be punished with transportation, would not be brought within the scope of the Bill."

Viscount Palmerston said, "the object of the Government was this, they did not intend to touch the law by which a confinement within the walls of a prison was awarded for a certain limited period not exceeding three years, but to deal simply with sentences of transportation, which constituted a different punishment altogether. If Parliament should think it right to deal with sentences of imprisonment, it might do so, but that would require a separate measure."

Here, Sir, you will be pleased to observe, that Sir John Pakington and Lord Palmerston both agree in drawing the distinction as to the capacity for claiming a ticket-of-leave between convicts sentenced to imprisonment, on the one hand, and those sentenced to transportation and penal servitude, on the other. Sir John Pakington thought the Bill ought to be so altered as to make all the three classes capable of enjoying the privilege; but both gentlemen evidently agreed, that even as the Bill then stood, penal servitude was clearly within the pale.

Sir John Pakington, as you are doubtless aware, has long filled the office of chairman at the quarter sessions for Worcestershire, and it occurred to me a few months ago to be present

Appendix, No. 1.

sent when a noble and learned Peer pronounced a public eulogy on that gentleman for his extensive knowledge of the criminal law.

Permit me also to invite your attention to the following passages extracted from the debate on the third reading of the same Bill.

Mr. Keating said there were several "clauses in the Bill which deserved the careful consideration of the House. He would refer more particularly to those clauses by which it was provided *that the Secretary of State should give tickets-of-leave to such criminals as should have a sentence of penal servitude at home substituted for a sentence of transportation.* There could be no difference of opinion as to the propriety of doing everything which could be done to effect the reformation of the criminal. At the same time, they should bear in mind that that was not the only object for which punishment was awarded. One great object of punishment was to deter others from the commission of similar crimes. Now, in his opinion, those clauses, introducing, as they did, a novel system into the criminal procedure of this country, ought to be well considered by the House before they were enacted."

* * * * *

"Viscount Palmerston said he was not surprised that the Hon. and Learned Gentleman, who had probably not attended to the discussions which had already taken place upon the Bill, should be struck with the novelty of the proposed arrangement. He could, however, assure the House that the subject had received the most deliberate consideration from persons much more competent to deal with it than he could profess to be, and it had been thought that the new system would be attended with considerable advantage to the country as well as to the criminals themselves. The practice had hitherto been, after a certain period of preliminary imprisonment, and a certain period of employment upon public works, to send convicts to a penal colony under that system of qualified servitude which was called the ticket-of-leave system. The hope of obtaining that indulgence had been found to have a very powerful effect upon the mind of convicts confined in prisons and employed upon public works, and had tended greatly to produce resignation to their condition, and a determination to adopt that good conduct which would entitle them in course of time to participate in the same indulgence. Now, as the great object of punishment for offences not of the gravest character was the reformation of the criminal and the example of others, he thought it would be not only unwise but undesirable *that when transportation ceased, there should with it cease that element of hope which was so important a feature in prison discipline. There appeared to be no other mode of preserving that element of hope than by adopting that ticket-of-leave system which had proved so beneficial in our penal colonies.*"

Thus, Sir, you will perceive that Mr. Keating, a gentleman of eminence at the bar, one of Her Majesty's counsel, reads the Act precisely as I read it, and that his construction meets with the assent of Lord Palmerston, as might be expected, after what had occurred between the noble Lord and Sir John Pakington, on a former debate. With regard, however, to Lord Palmerston, I have more to say. As, then, filling the office which you now hold, his construction shows not only what was the legal operation which it was at that time considered by the department the Bill would have upon convicts sentenced to penal servitude, but it shows that such legal operation was in conformity with the views of its framers, otherwise the legal effect for which I contend being at that period admitted on all sides, the language of the Bill would have been changed and brought into accordance with the opinion which the department now holds. On this point, however, I will put you into possession of evidence which places the opinion of Lord Palmerston beyond all doubt.

In the cases of E. S., J. H. and W. T., referred to me by the noble Lord while he held the seals of the Home Department, I three several times reminded him that if he should think right to mitigate the punishment of the convict, he could do so without disturbing the judgment as pronounced, because, I said, under a sentence of penal servitude the Crown has the power of issuing a licence which would release him from prison at any moment. Lord Palmerston, it is true, did change the sentences in each case; but the answers apprizing me of what had been done were in the usual form, conveying no intimation of the reasons upon which my suggestions had been rejected. Now, Sir, I cannot doubt that, upon my thus disclosing to his Lordship my construction of the statute, he would, if it had militated against the construction adopted in the office, have warned me that I had fallen into an error, and was acting on expectations as to the future treatment of the prisoners which could produce nothing but disappointment. I may add, that upon reference to my letter in the case of E. S., dated 27 January 1854, it will be seen that I detailed so minutely my practice with regard to sentences of penal servitude, and the expectations which I held out to the prisoners, as to challenge the especial attention of the department to the course pursued.

It sometimes happens that the intentions of those who frame an Act, and the meaning of the Act after it is framed, differ widely. When that is so, it becomes the duty of a judge to disregard the intentions of the framer, whatever they may be, and abide by the will of the Legislature as revealed in the Act itself. In the present instance, however, I trust I have proved, though not bound to such proof, that both are in conformity with the meaning which I have adopted.

My attention, I observe, is called to certain inequalities in punishment which you suggest would flow from the construction for which I contend. These inequalities, it seems to me probable, may in great part, if not altogether, be removed by framing new rules of practice having especial reference to the provisions of the Act. On this point, however, I speak, as I ought, with great diffidence; but whether or not I am right in this view, I submit it as a legal

a legal proposition well established, that difficulties, inequalities, and even absurdities arising in the execution of an Act cannot, when its language is clear, alter its legal effect. If these difficulties amount to impossibilities, the intentions of the Legislature are defeated, and the Act, or that part of it in which its execution is thus impeded, must become a dead letter; but the meaning and construction of the Act remain as before; and as the suggested inequalities in the treatment of convicts which might arise from construing the Act in its natural sense, even if they cannot be removed, raise no impossibilities in the way of its legal operation, all that can be done is, I submit, to carry the Act into effect, pursuant to its meaning as legally ascertained, until it shall please the Legislature either to repeal or to amend it.

I have now proved, as I venture to hope, first, that I have been acting strictly according to law; secondly, that the meaning which I have given to the Act corresponds with the intentions of its authors; thirdly, that the class of convicts adjudged to penal servitude cannot be legally excluded from the privilege of tickets-of-leave, by virtue of the discretion which the Act confides to the Crown of withholding the licence in particular instances, where the convicts may not have earned their privilege.

On these grounds, Sir, I trust it will be unnecessary for me to avail myself of your offer to entertain any recommendation I may think it right to make respecting the prisoners whom I have, in the course of the two years which have elapsed since the passing of the Act, sentenced to penal servitude, under the belief, publicly expressed, that they had it in their power by good conduct to entitle themselves, before the expiration of their respective terms, to a discharge upon tickets-of-leave. I am not unmindful of your announcement, that the convict is not to be wholly deprived of the means of achieving his liberty before the expiration of his sentence; but I agree with what I understand to be your own anticipation with regard to the proportion who will succeed in shortening their imprisonment; for if, as a general rule, "sentences of penal servitude are to be carried into effect in their integrity," it is evident that remission will only occur by way of exception. Your long experience as Secretary of State for the Home Department must, I am sure, have made you too well acquainted with the dispositions of convicted criminals to permit you to entertain any sanguine hope that these exceptions can ever be numerous. When adjudged to a long term of imprisonment, but furnished with opportunities for materially abridging its duration by good conduct, hope and fear both urge him to exertion; but when the original term is made short, and the conduct required to earn the remission of any portion of that term is such as will justify the Crown in giving him an absolute discharge, his prospect of release will be too remote to act as a stimulus; and certain, as he is, of liberty at no very distant period, whatever may have been his demeanor, he will fall into indolence, the besetting sin of his class, and await in apathy the termination of his confinement.

I have, &c.
(signed) *M. D. Hill.*

To the Right honourable
Sir George Grey, Bart. &c. &c. &c.
Whitehall.

---

Whitehall, 12 December 1855.

Sir,

I AM directed by Secretary Sir George Grey to acknowledge the receipt of your letter of the 4th instant, on the subject of the grant of orders of licence to convicts under sentence of penal servitude; and I am to state that Sir George Grey agrees with you in thinking that convicts so sentenced are not excluded from the capacity of being discharged on licence, under the provisions of the 16 & 17 Vict. c. 99, and that no contrary construction has been placed on that Act; but as he cannot agree with you that, as a general rule, such prisoners should be discharged on licence after having undergone only a portion of their sentence, he must request you to be so good as to inform him of the term of penal servitude to which, in each of the cases referred to by you, you would have sentenced the prisoners, if you had supposed that they were to undergo the whole term; or if it will be inconvenient to refer to each case, you can inform him what proportion of each term you considered the prisoners would be required to undergo before they received their discharge, assuming that their conduct, according to your view of the case, should entitle them to the privilege.

I am, &c.
(signed) *W. Massey.*

M. D. Hill, Esq.
Heath House, Stapleton, Bristol.

---

Heath House, Stapleton, Bristol,
17 December 1855.

Sir,

I HAVE the honour to acknowledge the receipt of Mr. Massey's letter of the 12th instant.

By a former letter from that gentleman, under date the 16th of November, it was intimated to me, as I thought, that the intentions of the Legislature would be frustrated by my sentences of penal servitude. This information, I felt, was tantamount to a suggestion that the sentences were not conformable with law, as they assuredly would not have been if

Appendix, No. 1.

if they had violated the intentions of the Legislature, as ascertained by the established rules of construction.

But as I find you concur with me in the interpretation of the Act upon which those sentences were framed, I feel that I must have misapprehended the nature of the intimation meant to be conveyed in that letter, and that the legality of the sentences is not intended to be impugned.

Let me then request you to observe the position in which this long series of judgments now stands:

1. They are in conformity with the law.
2. They are in furtherance of the views on which the measure of 1853 was proposed by Ministers to Parliament, and to which, by the passing of the Act, the Legislature gave its sanction.
3. The interpretation of the Act on which these judgments were based was made known to the department with great particularity at a very early period, and no exception having been taken to the course pursued, the sanction of the department must be added to that of the Legislature.

The question, then, for your consideration will be, whether, even assuming it to be right to change the principle on which my past sentences have been founded, it ought to be held so utterly indefensible as altogether to vitiate them.

I am sure it will not escape your notice, that so to disturb the proceedings of courts of justice is contrary to all precedent. To go back two years and a quarter for the purpose of altering all the judgments of a particular class which have been pronounced during that period, in order to bring them into harmony with a policy not known to the Court until after the sentences had been passed, will, I cannot but fear, do much towards lowering the respect due to open trial, and lead the public to the belief that the real fate of a prisoner is determined, not in Courts, but by the opinion which may from time to time prevail in the Home Office.

In the event, however, of your not feeling yourself at liberty to yield to these considerations, I beg to recommend that each sentence be reduced to one-third of its present length; and I will have a schedule prepared forthwith, which will enable you either to carry this recommendation into effect, or to deal with the sentences in any other manner which may appear to you more eligible than the one I propose.

For my future guidance, I respectfully solicit information on the following points:

1. From Colonel Jebb's letter published in the "Times" on the 18th of October last, it would appear that the whole system of discharge on licences, even as to prisoners sentenced to transportation, will substantially come to an end whenever those convicts who were under sentence at the passing of the Act shall have been disposed of. If, however, this announcement should be inaccurate, I wish to be relieved of doubt on the following point.

2. By Mr. Massey's letter of 16th November, I am informed that a recommendation of any prisoner under a long sentence of penal servitude from the prison authorities, forwarded on special grounds of good conduct, and supported by satisfactory proof, would receive attention; I wish to know whether in such a case the punishment will be mitigated by a discharge on ticket-of-leave, or whether it will be absolute?

I have, &c.
(signed) *M. D. Hill.*

The Right Honourable
Sir George Grey, Bart., &c. &c. &c.
Whitehall.

---

Sir,

Whitehall, 5 January 1856.

I AM directed by Secretary Sir George Grey to acknowledge the receipt of your letter of the 17th December.

In reply, I am to state that no doubt can be entertained as to the legality of discharging, with orders of licence, prisoners sentenced to terms of penal servitude; but the legality of these sentences themselves must depend on whether the term of penal servitude for which prisoners are sentenced is in conformity with the term fixed by the Act as a substitute for the terms of transportation therein named. If, for instance, a prisoner is sentenced to seven or ten years of penal servitude for an offence for which he could only have been sentenced, before the passing of the Act, to seven years' transportation, Sir George Grey apprehends that the excess of the term of penal servitude beyond that sanctioned by the Act as a substitute for seven years' transportation will be invalid.

Sir George Grey will be glad to receive from you the schedule to which you refer, with any observations on the cases which you may think fit to send. If sent without any remarks, he will assume your recommendation to be as stated in your letter, that each sentence should be reduced by one-third.

In answer to your question as to whether the discharge of a prisoner sentenced to penal servitude under the circumstances mentioned in your letter will be with an order of licence or absolute, I am to inform you that it will be with an order of licence, unless there are any very special circumstances which might be considered to entitle the prisoner to an absolute pardon.

I am, &c.
(signed) *W. Massey.*

M. D. Hill, Esq., Heath House,
Stapleton, Bristol.

Heath House, Stapleton, Bristol,
16 January 1856.

Sir,

I HAVE the honour to acknowledge the receipt of Mr. Massey's letter of the 5th instant.

That a sentence to penal servitude would be invalid if it exceeded the number of years appointed by the Act as the commutation for the term of transportation which had been applicable to the offence prior to the statute, is a proposition so obviously true, that I was not aware it had ever been brought into doubt.

If you will be pleased to consult my letter of December 17th, you will find that my recommendation is to reduce the sentences contained in the schedule of which I there speak *to* one-third of their original length, and not *by* one-third, as it would appear (probably by a clerical error) I was supposed to have advised.

I omitted to ask whether I should be justified in holding out to convicts hereafter sentenced to transportation the expectation that they would be put on the same footing, as to tickets-of-leave, as their predecessors convicted before the passing of the Act.

The schedule is in preparation, and will be forwarded without delay.

I have, &c.
(signed) *M. D. Hill.*

To the Right Honourable Secretary
Sir George Grey, Bart., M. P., Whitehall.

---

Whitehall, 21 January 1856.

Sir,

IN reply to the inquiry contained in your letter of the 16th instant, I am directed by Secretary Sir George Grey to acquaint you, that it is the intention of Government to treat persons sentenced to transportation since the late Act in the same way as those sentenced to transportation before the passing of that statute.

I am, &c.
(signed) *H. Waddington.*

M. D. Hill, Esq., Heath House,
Stapleton, Bristol.

---

REPORT of a Meeting held at *Birmingham*, on Tuesday, 15 April 1856, to form a Local Establishment for the Relief and Employment of Discharged Criminals.

ON the 15th of April last, a meeting was held in Birmingham, in furtherance of a proposal which had been made to establish a Local Association for the Relief and Employment of Discharged Prisoners, the management of which it is intended to confide to the Governor, Chaplain, and Surgeon of the Borough Prison, with whom the project originated. Among the persons present were the Mayor, the Recorder, Mr. Van Wart, Mr. Winfield, and Mr. Phillips, magistrates; Mr. Joseph Sturge, the eminent philanthropist; the Rev. Sidney Gedge, the Rev. W. C. L. Aspinall, the Rev. J. T. Burt, prison chaplain; Mr. Hilliard, the governor; Mr. Rogers, the surgeon to the gaol; Mr. Barlow, clerk to the magistrates; Mr. C. Ratcliff, &c., and many ladies.

The Mayor, having been called to the chair, remarked that though it seemed rather difficult to know how to devise a plan to carry out the object the meeting had in view, all would agree that if they could form such a society, great good would be the result. It was a melancholy fact, that every day, men and women, boys and girls, were discharged from gaol, who, having lost their characters by the very fact of their being there, found it impossible to get employment, and were almost of necessity driven into a life-long course of crime, however anxious they might have been to make their first offence their last. (Hear.) He thought it would be well to have the society established and carried on as quietly as possible, especially as he did not think there would be much difficulty experienced in getting the necessary funds. He was ready to give it all the support in his power.

The Rev. J. T. Burt (one of the honorary secretaries) having reported the various preliminary steps which had been taken,

The Recorder moved the adoption of the report. One fact, he said, gave at the outset a hope of stability and an expectation of ultimate success. The promoters of the plan were the three principal officers of the gaol. This fact of itself would be an answer by anticipation to all fears that the ex-prisoners would be treated in a spirit of romantic sentiment, or that extravagant expectations would be entertained as to their future well-doing. To the governor, the chaplain, and the surgeon, the prisoner must be thoroughly known. They look upon him as he is, appreciating him at his just value, whatever that may be. They know that his reformation is a work of labour and of difficulty; they know that to retain him when at liberty in the good resolutions which he may have formed while in confinement is a work of even greater difficulty; but they know also, that though difficult, it is not, in the majority of instances, impossible. (Hear.) So that while, on the one hand, they are protected by their experience from over-sanguine expectations, on the other hand they are preserved from the worse danger of falling into scepticism as to the possibility of criminals becoming permanently reformed—a prejudice which has for so many years impeded those Christian labours which cannot be omitted without neglecting one of the most imperative duties enjoined by the founder of our religion. We have been receiving some humiliating but

Appendix, No. 1.

but most wholesome lessons. We have been awakening to the truth, that we are not quite so superior in every particular to all the world as we had fondly imagined. Whether we look upon ourselves as warriors, manufacturers, or philanthropists, we find that we have not monopolised all the virtue and sagacity of mankind, and imprisoned it within the narrow limits of our island. What we are met this evening to establish has been long in operation in many other countries, both in Europe and in America. As regards the working of these establishments, the results, so far as he had been enabled to acquaint himself with them, were encouraging in the very highest degree. It was a natural objection to arise in the mind of any thoughtful person, having no practical acquaintance with the class whose interests they were contemplating, that whatever advantages the benevolent furnished to the discharged prisoner would operate, if not as an incentive to crime, at all events to weaken the deterrent force of example. But those who, like the valuable officers to whom the meeting owed the proposal to establish the institution, were practically acquainted with the habits and modes of thought prevalent among the criminal class, knew perfectly well that they were the creatures of impulse; and these gentlemen would smile at the notion of the prisoners having taken up crime on a calculation of profit and loss. The criminal knows, just as well as we do, that criminal courses must ultimately bring him into a state of misery, which, if he could feel that he would to a certainty be plunged into it immediately on committing an offence, might have a strongly deterrent effect upon him; but that suffering being in the future, and uncertain as to its date, although certain enough to fall upon him sooner or later, the terror of punishment produces little impression on his frivolous and unreflecting mind, and that little quickly passes away. We must all plead guilty to giving the present moment and the present life too much weight in the government of our actions, but the criminal is emphatically the slave of his immediate desires, and his future lot no more troubles him than if it were the lot of another individual. And hence it was that he (the Recorder) could appeal with the most perfect confidence to those who thoroughly knew the criminal class, to support him in pronouncing fallacious all arguments, however plausible, which had been directed to show that amelioration in the condition of a criminal which he reaches through his endeavours to amend his conduct, have had the effect of inducing men, women, or even children, to become criminals themselves. If there were any exceptions to this rule (and he knew of none) they would be found on examination to be only apparent exceptions, and to be caused by some great error in the application of the bounty of the benevolent. Doubtless mischief would be wrought by pampering the appetites of criminals, or by any other ill-considered indulgence of their failings. But the practical officers of the gaol were not likely to commit such a mistake. And after all, though he had spoken of bounty, the principal requisites for success must not be sought in extensive pecuniary means. It was kindness under the guidance of sober sense, but nevertheless ardent and unclouded, which was the first want of the outcast—that Christian superintendence which may lead the poor creature to feel that he has some friend to whom he can look up with respect and gratitude; that some one whose encouragement is a favour and a blessing cares for him; will be made happy by his welfare, and will suffer pain and mortification if he should relapse into crime. Here then the wanderer would find a guide; here he may ask advice, which will not be given in pride, or in that species of condescension which is only pride under a mask easily penetrated. On the contrary, his friend will speak with him as fellow man to fellow man, as Christian to Christian, as sinner to sinner. But the aid will not be confined to words; if it were, indeed, the criminal who, by experience of his former associates and by the lessons of his youth, is suspicious, would believe he was the object of nothing more than lip-sympathy and ostentatious professions. Nevertheless, the aid afforded must, as little as possible, consist in furnishing him with money or money's worth, but mainly in taking pains to find the prisoner a home and honest employment, thus bringing him back to his place in society, and giving him another chance of enrolling himself among the honest portion of mankind. He would now, he said, call their attention to what had been done on the Continent. The French had, many years ago, founded institutions similar in their objects to that which this meeting was assembled to establish. These they call *Sociétés de Patronage*, which were now in action all over France, but, as might be expected, more especially in Paris, whence they had their origin. He was enabled by personal examination, by reading reports of these institutions, and by the information he had obtained from his friend M. Demetz, to assure himself that the results were highly satisfactory. During a tour in Italy which he made four years ago, he found similar institutions in Florence and other parts of Tuscany. They were working well, and were giving perfect satisfaction to those who employed their time and money in establishing them. He had obtained documentary evidence of their success, and he had also been favoured with a personal interview with one of the ministers of the Tuscan Government, who was at the head of these societies, which are nevertheless voluntary institutions. In Bavaria, the whole kingdom is reticulated, so to speak, with patronage societies; a principal establishment in each province, with sub-societies in each district. By the Bavarian law, every prisoner is sent on his discharge (not simply directed to go, but conveyed, as it were) to his parish, which takes charge of him until the societies can find him employment. In cases where the directors think that further probation is desirable, the ex-prisoner is sent to a Refuge for a time by way of fitting him more completely for being placed out to work. The meeting might rely on this information, as he obtained it through Sir John Milbanke, our envoy at Munich, who was so kind as to transmit the Recorder's questions on the subject to the Bavarian minister of the interior, with a request that he would obtain answers, by which means

means much valuable information connected with the prisons of Bavaria came into the Recorder's possession. It was to be observed that in every case of success the voluntary principle was adopted, and very sedulously observed, even under despotic governments. And as regarded the United States of America, the voluntary principle was, as might be expected, in flourishing action, with results corresponding to the hopes of those who were cognizant of its marvellous efficacy. In all the countries to which he had referred, those two things, the voluntary principle, and success, were found co-existent. But in Austria, where such societies had been established by the government, success was wanting, and the same government which had set them up, found itself obliged to let them fall. (Hear.) In our own country, we have not hitherto done much; but a most valuable commencement was made many years ago. The society to which he referred was established by Mrs. Fry, and its operation, he believed, was limited to female prisoners, and to those who had been committed to Newgate. From his own experience he could testify to the value of their labours. Nineteen years ago, the society recommended to his service, as nurse, a young woman who had been convicted of a serious theft. His wife made very careful inquiry respecting her conduct, both before and after her offence; and they paused for some time before they ventured on the step of taking her into their household. But eventually she was not only received, but an infant, in very delicate health, was committed to her care, by day and by night. It was thought necessary to place her under somewhat severe restrictions, to which she submitted without a murmur. He was able to state that the experiment was quite successful. A more tender and watchful nurse, or a more faithful domestic, it had never been his fortune to engage. The meeting would be glad to learn, that after a long probation, she rejoined her husband, and although the Recorder's family remained in communication with her for years, they had no reason even to suspect that she forfeited, or deserved to forfeit, the position which she had thus regained. (Hear.) Similar societies had been formed at Bath and Worcester, both of which he believed had been productive of great good, although he could not speak of them with particularity; and there were other associations with which, however, he was too slightly acquainted to be able to speak of them at all. Referring to the suggestion which had fallen from the Mayor, that their operations should be at first withdrawn from the public eye, the Recorder said he did not see how they could make even a beginning without the aid of the press, as not only would they require the public sympathy to obtain the requisite funds (for some money they should want, though not so much as might at first sight appear necessary), but they must impress the minds and awaken the kind feelings of employers, or they would be unable to obtain places for their wards. And in addition to the consent of employers, it would be necessary to gain the co-operation of working men, who very naturally felt disinclined to admit the discharged prisoner into their body. Some had thought this objection insuperable, but he who for 17 years had witnessed, not without admiration, the willingness of that class to receive back prisoners who had wronged them into their houses, when he (the Recorder) felt himself able to remit the punishment which the convict had incurred, and could deliver him up to these kind-hearted persons, had no such fears. If injured parties showed so much of charity and long-suffering, he could not believe that the body of which they were members would refuse to lend a helping hand to a fallen brother, on that reasonable assurance which would be given to them, that extreme care would be taken to guard against the privilege being abused which they were asked to concede to him. He desired to take this opportunity of impressing on every one who might read the proceedings of the evening, that those whose pecuniary means did not admit of their joining the society, might nevertheless be of essential utility by communicating with the agent who would be employed, as to opportunities for setting the prisoners to work; and he would add, that the humblest and the poorest honest man or woman had in that honesty, and the character which it gave to them, a treasure which enabled them to confer a precious boon upon the outcast. They could give him kind words of consolation and advice. They might let him feel the gratification of knowing that he had a friend who would not scorn or reproach him, and yet who would not lead him into temptation, but as far as possible protect him from it. The Recorder then adverted to the eminent services of Thomas Wright, of Manchester. This exemplary man was the father of a very large family of children; the Recorder was afraid to mention the number. He had heard it amounted to 19. His circumstances in life were far from opulent. He was the foreman of a foundry. Many years ago, he was led to visit the prison at Salford, the adjoining borough. Sunday, being his day of leisure, was the time chosen, and without neglecting his own religious duties, or the care of his family, he spent hours every Sunday with the captives. He thus acquired an intimate knowledge of the character of each prisoner; and on their discharge, he exerted himself with untiring energy, and with eminent success, to obtain places of work for such as he considered hopeful. Sometimes he was obliged to become surety for the good conduct of his protegé; but he represents himself to have lost but little money by incurring this obligation. The number of his fellow-creatures, whom Thomas Wright has permanently rescued, amounts to several hundreds. (Hear.) The people of Manchester, wealthy and generous, have raised a sum adequate to provide for the maintenance of this good man for the remainder of his life, and have withdrawn him from the foundry, thus bestowing upon him the most acceptable reward they could have offered—the power of devoting his whole time to his noble mission. The Recorder spoke also of Sarah Martin, the poor dressmaker of Yarmouth, who began her labours early in the present century. Feeling a strong desire to be of use to the prisoners in the gaol of her native town, she was urgent in her entreaties to be admitted to them. But so little was this form of charity understood or appreciated, and so obscure was her social position, that it was not until after the lapse of a considerable period

Appendix, No. 1.

that she accomplished her object of being permitted to enter the gaol. She, like Thomas Wright, gave up her Sundays to the task of teaching and exhorting the inmates. By great self-denial, she managed so to eke out the little pittance earned by her labours as, after fulfilling the duty of providing for the wants of her grandmother, to be able to pass a whole week-day in addition to the Sunday with the prisoners. Like Mr. Wright, though not to the same extent, she employed herself in obtaining occupation for the discharged. Her strong and pure spirit was lodged in a frail tenement, and the middle of life was scarcely reached before she died, worn out with her labour of love. (Hear.)

Mr. Joseph Sturge seconded the motion. He could appeal, he said, to the experience of gentlemen in that room, that many of those who broke the laws of their country were more to be pitied than condemned. (Hear.) How many of those he addressed could dare to say that, if they had been placed in similar circumstances, they would not have given way to temptation? He believed there would be no difficulty in raising money. The chief difficulty would be to find persons who would be willing to do as the Recorder had done—trust a convicted thief with the care of either child or property.

The motion was then carried.

The Mayor, at the request of the Recorder, then read a very interesting narrative of the history of eight or ten young persons for whom situations had been obtained by Mr. Hillyard, governor of the gaol, all of whom had turned out well.

The Rev. S. Gedge, in some admirable remarks, then moved a resolution, requesting the committee to take the necessary steps to obtain subscriptions, and to bring the society into operation as soon as possible.

This was seconded by Mr. Phillips, and supported by Mr. Winfield and Mr. Rogers, the latter explaining that the object of the society would be chiefly attained by the employment of an agent, who would in a quiet and unostentatious way place the discharged prisoner in lodgings, and endeavour to obtain employment for him, giving the guarantee of the society for his honesty where a guarantee was required.

A motion enlarging the committee was proposed by Mr. Barlow, seconded by Mr. Ratcliff, and supported by the Rev. Mr. Burt. The latter remarked, that he could not have sustained the moral pressure of acting as chaplain, and seeing men, women, and children, turned adrift into the town, from the gaol, had it not been for the hope of seeing steps taken for establishing a permanent system of relief. The plan which he ventured to recommend was not to establish a large institution for all the prisoners requiring assistance, but to engage single lodgings for them in the cottages of poor persons of good character. If it was found necessary, a few small houses might be rented, and re-let to respectable tenants, who would receive the parties sent to them. The prisoner might in some cases be allowed to occupy the lodgings without payment for a few days, while he sought for employment; but as soon as he procured work, he would be required to pay a fair rent. Upon this plan there would be as little deviation as possible from the accustomed social condition of the persons relieved; and he believed it to be a safe rule, in all charitable efforts, that the less we depart from the ordinary arrangements of society, the greater amount of good we accomplish. He would not hold out the hope of doing much by the proposed measure, but he had no doubt that some little might be done, and however little we can effect, it was our duty to do what we can. He felt that to teach a man religion in prison, and to tell him to be honest, and then to send him out into the world under circumstances in which it was morally impossible for him to earn an honest livelihood, was mocking him.

Votes of thanks having been passed to the Recorder and the Mayor, the meeting separated.

## BIRMINGHAM DISCHARGED PRISONERS' AID SOCIETY.

(Established 8th April 1856.)

### Rules.

1. This society shall be called the "Birmingham Discharged Prisoners' Aid Society."

2. The object of this society shall be to aid prisoners on their discharge from the Birmingham Borough Gaol, by procuring suitable lodgings for such of them as may be selected by the committee of recommendation, furnishing temporary maintenance, in case of need, to individuals seeking employment, assisting them in obtaining work or in returning to their homes, and subsequently exercising a friendly supervision over them.

3. The society shall consist of all persons subscribing 5 *s.* and upwards per annum.

4. The society shall be governed by a president, one or more vice-presidents and honorary secretaries, a treasurer, and a committee of not less than 12 members, exclusive of the officers, who shall be *ex officio* members of the committee. Three members of the committee shall be a quorum.

5. The society shall meet annually in the month of April, when the officers and committee shall be elected; one-third of the latter retiring by rotation, but being eligible for re-election.

6. The governor, chaplain, and surgeon of the gaol shall be the permanent committee of recommendation, with authority to direct the administration of aid to individuals selected by them, subject to regulations made by the committee, and reporting from time to time.

7. An

7. An agent shall be appointed by the committee, to act under their direction, and under that of the committee of recommendation, in administering the relief and exercising the supervision contemplated by the society.

8. The duties of the committee shall be to make bye-laws, collect funds, appoint and control the agent, and generally to administer the affairs of the society, reporting to the annual meeting.

A Letter to the Inhabitants of the Borough of Birmingham.

You will not consider, I hope, that I am acting inconsistently with my official position, if I venture to urge upon you the necessity of making some provision for the relief of prisoners after they are discharged from your Borough Gaol. While they are in prison they are kept from temptation, and they are visited and instructed; when they are discharged, these conditions are reversed; they are thrown into the midst of temptation, and they have no one to visit them or to give them friendly counsel. The wants most felt by them are, the want of a home, the want of employment, and the want of friendly advice. These are the wants which it is proposed to supply.

But it must not be supposed that all prisoners require or merit such assistance. Very many have homes, many can procure employment, and some prefer to return to a life of plunder; but by some the proposed assistance is greatly needed, and would be gladly accepted.

The governor of the prison, the surgeon, and, I may add, the matron, entirely concur with me in the opinion that in these cases some provision is imperatively called for; and we arrive unanimously at the conclusion, that by such provision a return to crime might, in not a few cases, be prevented. I may add, that the police authorities also concur in the opinion that the contemplated measures of relief are practicable, and that there are cases in which they would be highly beneficial.

I can hardly anticipate much difference of opinion upon this subject. Men's actions are, in all cases, influenced by outward circumstances. Even men of high virtue, and of strong minds, are powerfully acted upon from without. None guard so scrupulously against vicious and seductive associations; none know so well the danger to virtue when thrown in contact with vice, or when strongly pressed by temptation. How much more powerfully, then, must outward circumstances act upon those who possess no strength of character, whose virtue is feeble, and whose vicious dispositions, recently ascendant, are as yet but imperfectly repressed. And those external influences for evil are specially to be dreaded with the young, and after an offender has once been convicted and imprisoned. It is dreadful to see men, women, and children of tender years, perhaps orphans, perhaps deserted, turned out of prison loose into the midst of this dense population, houseless, friendless, without work, without character, with no fellow-creature to recognise them but old companions in crime, and no home but some den of thieves. Yet such, undoubtedly, is the pitiable condition of not a few when discharged from your Borough Gaol.

These are the cases for which you are respectfully invited to make some provision. It is not assumed that all the ills incident to such extensive degradation can be remedied, and, for my own part, I do not expect that very much can be done; but some little might certainly be accomplished, and, however little that little may be, both self-interest and duty demand that we should do what we can. The severe discipline of the gaol and its kindlier admonitions cannot avail so long as the prisoner is sent forth to perform a task which is morally hopeless. The aim and end of imprisonment, so far as the individual offender is concerned, is to act upon his moral character; but since it is ever by the force of outward circumstances, combined with the internal moral condition of the individual, that human actions are determined, the treatment in prison, even when most successful, leaves the work of reclaiming the offender but half done. When he is discharged, *willing* to be honest, it remains for us to make it *possible*.

In providing homes for discharged prisoners, it is not intended to follow the usual course of founding a large institution. There are several practical objections to such an establishment. It entails a heavy outlay and annual expenditure. All who are seen passing its door are branded with the mark of the convicted criminal; and contamination is found to be inseparable from the congregation of such persons. No keenness of penetration can prevent the admission of the hypocrite; and no amount of judiciousness in the management can counteract the moral contagion when once admitted. Experience has established the expediency of separating criminals while they are in prison; and it is not less expedient to disperse them when they are discharged. It is proposed, therefore, to engage private lodgings for them in the cottages of poor persons of good character. If such lodgings cannot be found in sufficient numbers, a few small cottages will be rented in different localities, and trustworthy persons placed in them as tenants, at low rents, or rent free, upon condition of their receiving the lodgers consigned to them under such regulations as may be provided. When prisoners have no employment ready upon discharge, two or three days, or some very short period, will be allowed for them to make inquiries for work; and as soon as employment is procured, they will be required to pay a fair rent for the lodgings. There will be no danger of the number of such lodgers accumulating to an excess; good conduct and steady industry will soon allow of their being drafted off, and ensure for them admission to well-conducted lodgings of the ordinary class.

It will be a more difficult task to procure employment for discharged prisoners. But as very

Appendix, No. 1.

very many of them now obtain work by their own unaided exertions, there can be little doubt that some assistance may be rendered to the rest. Something is done already, from time to time, by the governor of the prison, and by other benevolent persons; and it is only reasonable to hope that something more may be done by combination and by systematic effort. Upon this part of the subject it is impossible not to advert to the remarkable and successful efforts of Mr. Thomas Wright, of Manchester. It is not unreasonable to hope that by acting in concert we may accomplish what he has done alone.

The duties already devolving upon the officers of the gaol render it impossible for them to devote much time to the working of these proposed measures of relief. At the same time, it is necessary, for several reasons, that the person actively engaged in this work in the town should be in constant and confidential communication with the officers of the prison, to whom the prisoner's prison character and criminal career are known. It will be indispensable, therefore, that a separate agent should be employed upon the proposed work. It would be the duty of this agent to seek for and engage such lodgings, under the orders of the committee: to put himself in communication with masters of different trades, and in different districts; to inform himself when prisoners requiring assistance will be discharged; and, after making such provision for them as may be practicable, to visit them, and to persuade them to place themselves under the ordinary supervision of their respective religious teachers. He would also report to the committee, from time to time, the general results of his labours.

It may be well to add, that the test of fitness for the participation in these provisions will not be professions of religion made in prison. Provided a prisoner, on discharge, needs, and is willing, to avail himself of the aid proffered, to live in decent lodgings, subject to simple rules of early hours and sober habits, to work steadily when work can be found for him, and to pay his way, his conduct will be the only safe test of his worthiness to be a recipient of these benefits.

Permit me to remind you that these destitute persons for whom our aid is asked are, though diseased members, still members with ourselves of the same great social family; and that it holds good in the body politic, as in the natural body, that when one member suffers, all the members suffer with it. In relieving these persons, therefore, we shall ourselves share in the benefit. These persons are, moreover, notwithstanding their guilt, our fellow Christians, and, therefore, in making provision for them, we shall "bear one another's burden, and so fulfil the law of Christ."

(signed) *J. T. Burt*,
Chaplain of the Borough Gaol.

Birmingham, 15 April 1856.

## THE TICKET-OF-LEAVE SYSTEM.

CHARGE to the GRAND JURY of *Birmingham*, delivered by the RECORDER at the October Sessions, 1855.

Gentlemen of the Grand Jury,—I have chosen for the subject of my present charge that mode of treating criminals which has been called "the ticket-of-leave system." Of late, this plan has attracted much attention in Parliament, in courts of justice, and in the public journals. The general impression seems to be that it does not work well. For myself, I am disposed to think that the effect of its operation, so far as it has hitherto been tried, has been exaggerated, both for evil and for good. But I should be grieved to find the system condemned in its theory, even supposing its practice has hitherto been open to some animadversion, because it embodies what I hold to be two most salutary principles: first, that the criminal should have the opportunity of working his way out of gaol; and, second, that he should, for a limited period, be liable to be deprived of his liberty so regained, if his course of life should be such as to give reasonable ground for belief that he had relapsed into criminal habits. To understand the true bearings of the questions which I intend to raise for your consideration, it will be necessary to take a comprehensive view of that general treatment of criminals which results from the operation of a public opinion making itself felt in the Legislature and the Executive Government, and often, unconsciously, to the agents dictating the verdicts of juries, and qualifying the sentences of our courts, combined with other circumstances, over which none of these authorities have any effective control. Time was—and the era is not so long past but that many of us have a vivid remembrance of its horrors—when our penal code was the most sanguinary of the civilised world. The list of offences punishable with death presented a fearful catalogue, descending from wilful murder down to privately stealing in a shop to the amount of 5*s*. Nor were the terrors of the law permitted to sleep; so that when the feelings of the people at last awoke to the cruelty of these inflictions, they were outraged at every turn with appalling scenes of legal vengeance. As might have been expected by reflecting minds conversant with history, and learning from its pages the vicissitudes of public sentiment, an overwhelming force of opinion became directed against the ferocious policy which had so long prevailed; and, as you know, the list of capital offences was not only promptly reduced to the narrowest limits, but the disposition towards lenity outstripping the course of legislation, we are at length arrived at the point when, even in deliberate murder, it is not an inflexible rule that conviction should be followed by execution. Gentlemen, during the period while so many offences were punished with death, the commutation of the capital sentence to one of transportation being an act of mercy, the minor, though still heavy penalty, was not regarded as severe;

severe; but when capital punishment became applicable only to a small class of crimes, transportation began to be looked upon in a different light; and now that, by the refusal of all our colonies, except one, to admit convicts among them, transportation has been, in great part, abolished, a similar feeling begins to prevail against long terms of imprisonment, which makes way all the more quickly, because long imprisonments not being imposed by sentence during the period that capital punishment and transportation were freely resorted to, present an aspect of novelty greatly deceptive, since a large proportion of convicts sentenced to transportation were at all times left in the hulks to be punished by confinement which might extend through the whole period for which they were adjudged to be sent abroad, although it was and is usual to discharge them after a detention of much inferior length. How far this disposition gradually to lessen the amount of punishment will be carried it is impossible to predict. All I can say is, that its progress is very rapid, and that it shows no sign of having approached its termination. We might suppose, at first sight, that shortening terms of confinement would furnish a means of relieving the pressure on the capacity of our prisons, and would enable them to provide for the surplus numbers caused by the stoppage of transportation. But those who are practically acquainted with the subject, know that a short imprisonment is likely to be followed by a speedy relapse, and that the prisoner often returns to captivity, bringing with him companions whom in the interval of enlargement he has seduced into crime. Recollecting these difficulties, gentlemen, you will not perhaps be surprised that the Government has not yet discovered a perfect solution of the hard problem—what are we to do with our criminals? In this state of perplexity it resolved on adopting, to a limited extent, the first principle to which I have adverted—that of making the duration of the imprisonment dependent on the conduct of the prisoner; it did not apply the principle universally, possibly, because it was not prepared to contend with the strong, although, I must think, morbid feeling in favour of slight imprisonments under which the culprit remains too short a time to benefit much by any reformatory system, however potent. Thus, it restricted the experiment to the cases of such convicts has had incurred the penalty of transportation. Gentlemen, I speak upon conjecture, but I must presume the existence of some strong reason which induces the Government to deny to the lesser offender the privilege of earning his discharge by his own exertions, while it concedes it to the greater criminal, who has incurred the heavier punishment; and I am not aware of any other reason than the one which I have pointed out. If, however, the reason suggested should be that on which the Government is really acting, I trust it will be remembered, that many convicts not liable to transportation or penal servitude are sentenced to imprisonment for as long a period as two years, and that many instances may be found in the returns made to the House of Lords, in which a less time has been held to furnish a sufficient length of probation to justify the grant of tickets-of-leave. But, gentlemen, if you desire, as I most earnestly do, to see this principle universally adopted, you must be prepared to strengthen the hands of Government, by advocating such a change in the law as will enable those who administer the criminal justice of the country to retain in custody all such as are convicted of crime until they have, by sure and unequivocal tests, demonstrated that they have the will and the power to gain an honest livelihood when at large. You must be content that they shall be retained until habits of industry are formed—until moderate skill in some useful occupation is acquired—until the great lesson of self-control is mastered—in short, until the convict ceases to be a criminal, resolves to fulfil his duties both to God and to man, and has surmounted all obstacles against carrying such resolutions into successful action. But as no training, however enlightened and vigilant, will produce its intended effects on every individual subjected to its discipline, what are we to do with the incurable? Gentlemen, we must face this question: we must not flinch from answering, that we propose to detain them in prison until they are released by death. You keep the maniac in a prison (which you call an asylum) under similar conditions; you guard against his escape until he is taken from you, either because he is restored to sanity, or has departed to another world. If, gentlemen, innocent misfortune may and must be so treated, why not thus deal with incorrigible depravity? This is a question which I have asked times out of number, without ever being so fortunate as to extract a reply. It is always tacitly assumed that imprisonment must not be perpetual; but whether that assumption is founded on any reason supposed to arise out of the nature of things, or whether it only rests on the present state of public feeling, I know not. If the former ground is taken, I would give much to learn what the argument is; when disclosed, I must either answer it or yield to it; but while I am kept in the dark, each alternative is barred against me. If, however, this assumed inadmissibility of perpetual imprisonment is rested on the present state of public sentiment, I have seen too often the change from wrong to right in that mighty power to despair of its becoming an ally instead of an opponent. It is my belief that if long terms of imprisonment, even to perpetuity, were placed before the public mind as indissolubly connected with the privilege to the convict of working out his own redemption from thraldom by proving himself fit for liberty, it would require no great lapse of time to produce the change in opinion which I contemplate. Alarm on the score of expense ought not to be entertained, for two reasons: first, because no unreformed inmates of a prison, however extravagant its expenditure may be, cost the community so much as they would do if at large. This fact has been so often proved that I must be allowed to assume it as undeniable. But the second reason is, that prisons may be made either altogether or to a very great extent self-supporting. In some of the western States of the North American Republic this important object has been more than accomplished, as the labour of the prisoners yields a revenue greater than is required for their food, lodging and clothing, their government, and their instruction; in short, for all the

Appendix, No. 1.

the various items which form the total expenditure of a gaol. It is quite true that labour is more valuable, and that food is cheaper in those States than it is with us. But, notwithstanding these facts, it was shown by the evidence which Mr. Charles Pearson adduced before the Committee of the House of Commons appointed to investigate this subject in 1850, to be in the highest degree probable that similar results might be obtained here. Whoever shall read that valuable testimony will, I cannot but think, even if not perfectly convinced, arrive at the conclusion that sufficient proof has been given to justify, if not to demand, such an experiment as would set the controversy at rest. Let me now, gentlemen, call your attention more specifically to the ticket-of-leave men. By a statute passed in the year 1853, a new penalty was created under the name of "penal servitude." This penalty only differs from that of imprisonment with hard labour by the provision for restoring the prisoner to liberty without waiting for the expiration of his sentence—namely, by a license from the Secretary of State, the instrument certifying that such indulgence has been granted being called the ticket-of-leave. Until, however, the expiration of the term of penal servitude to which the convict has been adjudged by the sentence of the Court, the license is liable to be revoked at the discretion of the Minister, and, when so revoked, the prisoner is re-committed in execution of his original sentence. This new penalty *must* now be substituted by the Courts in all cases formerly punished by transportation, except where his offence renders the convict liable to transportation for a period not less than 14 years, while it *may* be substituted even for the longest terms. It was also provided that convicts under sentence of transportation at the passing of the Act, or subsequently sentenced to that punishment, should be made capable of benefiting by the license of the Secretary of State on the same conditions as to revocation with those sentenced to penal servitude. Gentlemen, it is the provision for a conditional discharge from prison which has attracted public attention, and has given to the system its name. That both provisions are founded on sound principles is my firm belief, as I have already stated. It is obvious, however, that it is the first upon which the greatest stress ought to be laid, for this plain reason, that, in proportion as the means of reformation are furnished to the prisoner, and the tests of reformation are well chosen, and faithfully applied, in exactly that same proportion will the necessity for the second provision, viz., the power of recalling the ticket-of-leave, be diminished; so that if we could insure perfect tests, and a perfect application of them, the enlargement of the prisoner might be made absolute in the first instance, while, on the other hand, a convict imperfectly reformed will not unfrequently be undeterred, by the power of revocation hung over him, from yielding eventually to the temptations to which, when at liberty, he is certain to be exposed. As a protection to society, it is also, as it now stands, imperfect in this further particular, that the power of revocation terminates with the period fixed by the original sentence, which, at the time when the license is granted, may be nearly expired. This defect, however, might readily be amended; the power of recall might remain in force until a certain fixed period after liberation, to be further extended, if during that same period the recall should be made. And this brings me to what I consider the most serious defect in the statute. The condition which is set forth on the ticket-of-leave is as follows:

"The power of revoking or altering the license of a convict will most certainly be exercised in case of his misconduct. If, therefore, he wishes to retain the privilege which by his good behaviour under penal discipline he has obtained, he must prove by his subsequent conduct that he is really worthy of Her Majesty's clemency. To produce a forfeiture of the license it is by no means necessary that the holder should be convicted of any new offence. If he associates with notoriously bad characters, leads an idle and dissolute life, or has no visible means of obtaining an honest livelihood, &c., it will be assumed that he is about to relapse into crime, and he will be at once apprehended and recommitted to prison under his original sentence."

It is not, gentlemen, that I disapprove of placing these men again under restraint without evidence of their having committed a new crime. I must have greatly changed my opinions before I could raise any objection of that kind. Possibly it may be recollected by some of those whom I have now the honour to address, that in the year 1850, and again in the year 1851, I ventured to advise that all persons who had been convicted of acts of dishonesty should be liable, when, in the belief of competent witnesses, they were leading a life of crime, to be called on for proof that they were in the enjoyment of the means of subsistence, drawn from lawful sources; that, in default of such proof, they should be held to bail for a limited period, and, in default of bail, should be committed to prison. The principle on which my proposed measure was founded has now been adopted by the Legislature, but without the safeguard of a trial. According to the Act, the prisoner is deprived of his liberty by the mere stroke of the Minister's pen. The Legislature probably proceeded upon the ground that, as it is the confidence placed in his reformation which gains him his liberty, so if that confidence be lost, his privilege ought to be withdrawn. Nor am I, for one, much afraid that a power of this kind, however arbitrary, will be often abused. On the contrary, I believe the danger lies on the other side. It is so repugnant to the spirit of our laws to condemn without a trial, that an English Minister is under a much stronger temptation to withhold the exercise of such a power in cases where it is justly demanded than to use it oppressively; and, accordingly, symptoms of such forbearance are not wanting. Mr. Jardine, the London magistrate, lately complained that 40 ticket-of-leave men infested the neighbourhood of his court; meaning, doubtless, to intimate by that statement, that he had in his vicinity 40 of such convicts, who had incurred the forfeiture of their licenses by disappointing the expectations on which they were granted. If this be so, it would seem but reasonable that in each of these instances the ticket-of-leave should be recalled, unless, indeed,

indeed, the sentences have expired, when it would be incorrect to denominate these convicts ticket-of-leave men, since they stand only in the same position with all other prisoners who have received their absolute discharge. But, gentlemen, it appears by a return made at the end of March last, that the practice is not to withdraw the license until the convict stands charged with a new offence—a deviation from the terms of the warning written upon the ticket-of-leave, which I am unable to explain except by the conjecture which I have offered to your notice. Gentlemen, I have said that the working of the system has been, as I think, exaggerated both by its opponents and its admirers for evil and for good—for evil, because I feel certain that convicts who have now tickets-of-leave would have been released unconditionally, after a detention not very much greater than that to which they have been subjected under the new system. And I ground this opinion on three important facts: 1st, on the growing impatience of severe punishments evinced by the public; 2d, on the usage of liberating transports, not sent abroad, long before their terms of transportation have expired. To these two facts I have already adverted. The third is, that the Legislature, when it substituted penal servitude for transportation, very much abridged the duration of the punishment. Gentlemen, the real evil with which we have to contend stands thus: so long as we could impose our criminals on other communities, we did not trouble ourselves to cultivate the science of reformation; and now that this lazy and selfish resource has failed us, we, in the stress of our difficulties, are compelled suddenly to call upon the functionaries of our gaols to perform a task demanding qualifications with which, without a long previous training, it is unreasonable to expect them to be endowed; or, at least, in such full measure as to insure success. Having weighed these circumstances, you may, perhaps, gentlemen, arrive at the conclusion that no small portion of the unpopularity which has fallen upon the new system is produced by its having come into existence just at the time when the country was beginning to suffer from the augmented number of convicts which the stoppage of transportation had liberated at home, instead of their being thrown into our colonial population as heretofore. The disease, if I may so illustrate my meaning, results from the obstruction of the accustomed vent, namely, transportation; but the remedy, the ticket-of-leave system, failing to work a perfect cure, has been censured as if it were the cause of the malady. Gentlemen, the reason why I think the system has been over-estimated for good as well as for evil is, because it applies only to a comparatively small class, and because the evidence of reformation remains doubtful, although, I must admit, much more cogent, and applying to a larger proportion of the licenses than I had expected to find it. And I make this admission without forgetting that large subtractions may be required from the estimated results. The estimate is, that from 80 to 90 per cent. of convicts discharged with tickets-of-leave are permanently reformed. Gentlemen, there is, as you well know, an establishment at Mettray, in France, for the reformation of juvenile offenders, which stands at the head of all reformatory institutions. Mettray enjoys every possible advantage. Its founder and chief director, M. de Metz, who, by his visit here last week, may be personally known to you, is a man of unrivalled ability, long experience, and unexampled devotion to his great enterprise. His institution has gradually attained its present exalted height by 15 years of enlightened administration, conducted with sedulous care and assiduity; and yet, even Mettray does not reclaim a greater proportion of its inmates than 90 per cent. Nevertheless, gentlemen, 90 per cent. is to my mind a result so wonderful that nothing short of the very searching investigations which I have had the opportunity of making could induce me to accept it as worthy of confidence; and, that being so, I must be permitted to receive the estimate of reformations effected among the ticket-of-leave men with some doubt and misgiving, though with implicit reliance on the sincerity with which it is promulgated. The truth is, that permanent reformation demands years to test its reality, and the system has not been in operation for a sufficient length of time to furnish the required proof. The probabilities certainly look the other way. Mettray deals with young and plastic minds and bodies. It retains its wards a long time; often for many years. None of them leave Mettray until employment is procured for them. Each is placed under the superintendence of some benevolent person residing in the neighbourhood of his master, who watches over the youth with the care of a guardian. Mettray is looked upon by those who have been its inmates as a home. It is a high gratification to them to visit their "*colonie*," as they are taught to call it. If they have not failed in their duties they are always kindly welcomed, and, should they through misfortune be thrown out of work, they find hospitable reception at Mettray. Gentlemen, I shall be most agreeably surprised if experience shall justify those who superintend our ticket-of-leave system in placing their estimate so nearly on a par with the proved results of Mettray. It must, however, be remembered that we have all much to learn on the subject; and I do not forget that, in the opinion of Captain Maconochie, it is easier to reform adult than juvenile offenders. I will own that I have always regarded this view as paradoxical. Still it may be confirmed by experience, and may explain away the difficulty which now prevents my yielding a complete assent to the estimate on which I have been commenting. Gentlemen, it has been surmised that the tests on which the authorities rely for the reformation of the candidate for a license are of an unsatisfactory nature. It is said—I know not on what authority—that too much weight is given to the opinion which may be entertained of a convict by the chaplain. It is assumed that the chaplain will be very much guided by what he may suppose to be the depth and sincerity of religious impressions made upon the heart of the prisoner; and, reasoning on such presumption, it is argued that the life of a prisoner, subjected, as his actions are, to minute regulation and constant supervision, affords no tests by which it could be ascertained how far such impressions are genuine and of a permanent character. If, gentlemen, the premises are well founded, I shall be compelled to adopt the conclusion at which

Appendix, No. 1.

which the objectors have arrived, at least until more freedom of action is allowed to prisoners than they at present enjoy. But it is my good fortune to know several of the able and exemplary men who fill the office of gaol chaplain; and judging of the body by those of its members with whom I am acquainted, I hold them as little disposed to depend on such fallacious tests as the most jealous objector can himself be. It is so obvious that the fate of the prisoner should not depend upon a vague general opinion, but should be founded on an accumulation of facts day by day recorded, that I should require strong evidence against the authorities of any prison before I could be led to believe that they had fallen into an error so glaring. Doubtless, gentlemen, a punctual attention to religious observances, where the prisoner has an option to fulfil or neglect them, must not be omitted in the account. But there is danger in giving any very great weight to manifestations of this kind, inasmuch as even when they are based in sincerity the prisoner is tempted to exaggeration in their display; so that, what is pure in its inception becomes corrupt through the hope of temporal advantage. This danger is felt so strongly at Mettray that a provision is made against it which perhaps will startle those to whom the treatment of prisoners and its difficulties is a novel study. The conductors, when they have confidence in the individual, are well pleased to see him begin to join in the sacrament of the Lord's Supper, having found by experience that after this event an improvement is generally visible in his moral conduct. But as such an effect can only be produced when the communicant is acting from pure motives and on settled resolutions, not only is it provided that no secular benefit shall accrue to him from taking part in this communion, but, as an admonition not to approach the table in a rash or presumptuous spirit, every fault he may commit for the week following receives punishment of double severity. Yet, gentlemen, although it has not been given us to search the heart of the prisoner, and to distinguish by any sure criterion between those manifestations of his spiritual condition which are sincere, and those which are merely specious, still we are not left without tests on which we may safely rely. "By their fruits ye shall know them" is one, the value of which the highest authority has taught us to prize. We may rejoice that it is of easy application to that quality which, of all others, it is most essential should be acquired by the prisoner to insure him against relapse—I mean industry. We can measure the quantity of labour, and estimate its value, especially if it be of the simpler kinds, with some approach to accuracy. Let, then, an account be opened with each prisoner, placing to his credit the value of his labour—the real value, if productive labour can be found: an assumed value, or, rather, a value upon an assumed scale, if his labour be not of a productive kind. Let him clearly understand that each day's labour will tell upon his liberation. If large in quantity and good in quality, it will materially advance him on his way. On the other hand, if deficient in either of these attributes, his progress will be retarded. But a distant future, however bright—and no brighter prospect can open to the eyes of a prisoner than that of liberty—will not suffice without some hope of benefit nearer at hand. Let the prisoner, then, be allowed to expend a part of his earnings in the improvement of his diet. By acting on these principles we shall have provided for training him in habits of industry. But, although industry will, when he leaves his prison, furnish him with the means of honest maintenance, yet, unless he has learnt the art of self-government, he will not be effectually protected against the temptations to fall back into evil courses by which he will be assailed. Let him, then, be informed that every subtraction from the fund created by his labour for the indulgence of his palate will, like indolence, retard the hour of freedom: thus he will be taught economy. Gentlemen, other habits are very desirable, but these are essential; and, having explained how they may be induced, I must not dwell on the means of reformation at greater length. Those among you who desire to give full scope to your inquiries upon this interesting subject, to learn into how many ramifications reformatory science of necessity runs—how its difficulties are to be overcome, and how contending claims are to be adjusted—must consult the works of Captain Maconochie. The principle that the convict should be detained until by industry and good conduct he has earned his right to be free, was first enunciated by Archbishop Whately; but it was developed into a system, and thus rendered capable of practical application, by Captain Maconochie. May his services, even yet, late though it be, obtain for him some recognition from his country before the day shall arrive when earthly recompense will avail him nothing!

---

*Note.*—Captain Maconochie has stated to the Recorder that he has been misapprehended as regards the facility of reforming adult, compared with that of reforming juvenile offenders. His opinion, he says, is not that the aspirations of adults, and their habits, are more easily changed than those of the young, but that when changed the reformation is more likely to be permanent.

June 1856.

---

LETTER from *M. D. Hill*, Esq., Q.C., to the Chairman, containing an Abstract of a Report on the Five Points House of Industry, *New York*, dated 23d June 1856.

Sir,

23 June 1856.

Societies for giving aid to discharged prisoners and outcasts are so rare in all parts of the world that some useful hints may be derived from every one which has been as yet founded. Perhaps, therefore, you will admit into your Appendix the following account of the Five Points House of Industry, at New York, principally gathered from the Report of the

the Trustees of March 1856.* This quarter of New York, as it existed in the year 1842, is minutely described by Mr. Charles Dickens, in his "American Notes,"† from which I make a few short extracts:—"Let us go on again; and passing this wilderness of an hotel, with stores about its base, like some continental theatre, or the London Opera House shorn of its colonnade, plunge into the Five Points. But it is needful first that we take as our escort, these two heads of the police, whom you would know for sharp and well-trained officers if you met them in the Great Desert. So true it is, that certain pursuits, wherever carried on, will stamp men with the same character. These two might have been begotten, born, and bred in Bow-street. Appendix, No. 1.

"We have seen no beggars in the streets by night or day; but of other kinds of strollers plenty. Poverty, wretchedness, and vice are rife enough where we are going now.

"This is the place; these narrow ways, diverging to the right and left, and reeking everywhere with dirt and filth. Such lives as are led here, bear the same fruits here as elsewhere. The coarse and bloated faces at the doors have counterparts at home, and all the wide world over. Debauchery has made the very houses prematurely old. See how the rotten beams are tumbling down, and how the patched and broken windows seem to scowl dimly, like eyes that have been hurt in drunken frays. Many of those pigs live here. Do they ever wonder why their masters walk upright in lieu of going on all-fours; and why they talk instead of grunting?

"So far nearly every house is a low tavern."

" * * * * * *

"Here, too, are lanes and alleys, paved with mud knee-deep, underground chambers, where they dance and game; the walls bedecked with rough designs of ships, and forts, and flags, and American eagles out of number; ruined houses, open to the street, whence through wide gaps in the walls, other ruins loom upon the eye, as though the world of vice and misery had nothing else to show; hideous tenements which take their name from robbery and murder; all that is loathsome, drooping, and decayed is here."

This description is corroborated by the report. "For well-nigh half a century this locality had been the plague-spot of the city; the poor and the destitute, the vile and the vicious, had gradually occupied the whole of its dwellings; its cellars and its garrets alike resounded with the blasphemies and the revelries of their inmates."

The House of Industry receives, boards, lodges, clothes, teaches, and employs the destitute of all ages, and both sexes, so far as its means will permit. "Unlike the large public institutions, and most of the private charitable associations," says the Report, "we have placed our House of Industry in the heart of the city, and amidst the crime and destitution of the Five Points. There is a propriety in this which is often overlooked. The hand that would help must be extended to the estranged and disheartened outcast; the aids to reformation must lie within very easy reach of the wayward and reckless wanderer, at the repentant pause which is so quickly succeeded by a fresh impulse towards destruction; the door of God's house must open upon their hourly walks, and invite the purposeless wayfarer to turn aside as idly as he will. At the door of our institution the wretched can act upon their first impulse, and at once be received into a moral atmosphere, which tends to strengthen their feeble purposes. Treated with kindness, and furnished with occupation, they soon appreciate its benign influence, and the pangs of remorse are followed, in many cases, by the purifying feeling of genuine repentance.

It is a main object with the conductors to promote the emigration of their inmates from the city to rural districts. This they now propose to do through the agency of auxiliary societies. I insert the articles of association which have been prepared for circulation:—

"New York, 1856.

"The Trustees of the Five Points House of Industry invite your attention to the inclosed paper, and request you to interest yourself in the proposed plan of operation. As they consider it but reasonable that the expense of sending persons to the country should be borne by those who receive the benefit of their services, they propose to form auxiliaries throughout the rural districts, to aid in the distribution of the surplus population which accumulates in this city. The enclosed articles of association will explain to you the plan of operation proposed. Is you can form an association at , and can raise a sum sufficient to defray the travelling expenses of one, two, three or more persons, to your vicinity, the amount is to be remitted to the House of Industry, and by it placed on special deposit. It will further be the duty of your association to inquire whether any respectable families in your neighbourhood are willing and desirous to receive inmates from the House of Industry. Having found a suitable family, inform the superintendent of the kind of person required (stating age, sex, and occupation, &c. &c.); and as soon as practicable, a person will be sent, and the sum required to pay the travelling expenses will be taken from the amount specially deposited. In many cases the amount expended will be immediately replaced by the party receiving the benefit of the service; if not, it should be regarded as a charity rendered by the auxiliary, and the sum on deposit should as soon as possible be made up to the original amount.

"It

* Second Annual Report of the Trustees of the Five Points House of Industry, made to the Incorporators, March 1, 1856. Established June 1850; Incorporated March 3, 1854-1856; 155, 157, 159, North-street, New York.

† "American Notes for General Circulation," by Charles Dickens, London: Chapman and Hall, 186, Strand, 1850.

Appendix, No. 1.

"It should be borne in mind that the work of reformation is only commenced at the House of Industry, and that it would be vain to expect that the characters of all the inmates were reliable. No such hopes are held out; but only an invitation is given to the religiously and charitably disposed part of the community to aid the Trustees in the reformatory character of the labour they have undertaken.

"Should you desire to aid in this work, by active co-operation, you are requested to form an auxiliary at , and interest yourself in the development of the plan.

"By Order of the Trustees.

"Articles of Association.

"1. This association shall be called the Auxiliary to the Five Points House of Industry, New York.

"2. The objects of this association shall be to obtain in this neighbourhood Christain homes for the inmates of the parent institution, both adults and children; and to raise a fund to defray the expense of sending them here; and, when practicable, contribute towards the expenses of the parent institution.

"3. All persons contributing $1, or upwards, shall be members for one year.

"4. The funds collected shall be divided into two parts, and remitted to the House of Industry: one for the general objects of the institution, and the other to be placed on special deposit, to the credit of this auxiliary.

"5. The officers of this association shall consist of an Executive Committee of five, who shall be elected annually, in accordance with the bye-laws, and shall appoint the Chairman, Secretary, and Treasurer of the Association.

"6. It shall be the duty of the officers:

"I. To obtain from the parent institution suitable persons to fill any situation which may be vacant in the neighbourhood, for the supply of which application is made to them.

"II. To receive such persons on their reaching the point to which their passage is paid, and to place them in their situation.

"III. To transmit, as received, all funds collected for the objects of the association.

"IV. To advise the superintendent in New York of the arrival of the persons sent from the parent nstitution, with the names, occupations, residences, and post-office address of the party with whom they are placed.

"7. Any funds placed to the credit of this association shall be transferred to the general account of the parent institution, when for two years no collection shall have been made in aid of its objects.

"8. The executive committee for this year shall be the following persons, whose names are subscribed hereto:

day of 1856."

The institution is in possession of a farm. "The trustees," says the Report, "have endeavoured to develop the resources of the land, and adapt it to the service for which it was designed, as fast as the limited means disposable for that purpose would permit. In the meantime, it has not been a useless appendage of the institution, for while its condition is being gradually improved with a view to market gardening, it yields the city establishment an abundant supply of pure milk and vegetables without expense, and proves, moreover, a wholesome and beneficial retreat for our invalids.

* * * * * *

"The whole number of inmates of the House of Industry during the past year has been 1,005, accounted for as follows:

| | | | |
|---|---|---|---|
| Remaining March 1, 1855 | 242 | Sent to situations | 628 |
| Since received: Men | 77 | Returned to their friends | 119 |
| Women | 371 | Sent to other institutions | 43 |
| Children | 315 | Expelled | 50 |
| | | Left voluntarily | 50 |
| | | Remaining March 1, 1856 | 115 |
| | 1,005 | | 1,005 |

Hitherto the institution has occupied such a building as the trustees could find already existing in the district. They are, however, constructing a house of their own, at the estimated expense of 36,000 dollars. The treasurer's report will show the liberality with which the inhabitants of New York support this valuable establishment.

By

| | $ c. | | $ c. |
|---|---|---|---|
| By Balance, March 1, 1855 - - | 3,201 89 | To Rent - - - - - | 2,696 00 |
| – Work - - - - - | 1,801 37 | – Furniture - - - - | 224 23 |
| – Board - - - - - | 2,092 86 | – Provisions - - - - | 7,459 21 |
| – Donations for current expenses | 12,917 74 | – Work - - - - - | 1,008 98 |
| – Donations for building - - | 14,085 30 | – Clothing - - - - | 1,126 91 |
| | | – Incidental, travelling, Transportation, medicines, funerals, &c. - - - - | 824 68 |
| | | – Superintendent and Assistants | 1,814 95 |
| | | – Out-door poor - - - | 477 70 |
| | | – Building - - - - | 17,031 09 |
| | | – Balance - - - - | 1,435 41 |
| $ | 34,099 16 | $ | 34,099 16 |

It appears that much of this expenditure is in relief of emigrants from this country and their children. From the narratives contained in the Report it would seem, that the disappointment of over-sanguine expectations, sickness, and other misfortunes, tempt the emigrant to indulge in drink, a peril to which he is also exposed by the cheapness of ardent spirits. You, sir, I am sure, will not fail to appreciate the active benevolence of the people of New York in the succour which they extend to our unfortunate and often misguided fellow-countrymen.

The House of Industry seems to be doing in New York the work so admirably performed by Mrs. Chisholm in New South Wales, in finding a market for unemployed labour, with this difference, that by their large pecuniary means the conductors are enabled to select for their patronage a kind of labour for which it is most difficult to find a market; a difficulty which to the poor labourers, if left to themselves, amounts to an impossibility.

I have, &c.
(signed) *M. D. Hill.*

To the Right Hon. M. T. Baines, M.P.,
Chairman of Transportation Committee.

---

LETTER from *M. D. Hill*, Q.C., to the Right Honourable *M. T. Baines*, Chairman.

Sir, 27 June 1856.

I MUST venture to trouble you once more in reference to one or two of my statements to the Committee.

In answer to a question put to me by Mr. Adderley, as to whether there are not in France Sociétés de Patronage for discharged adult female convicts, I stated that I had been led to believe that France contained no Sociétés de Patronage except for juvenile criminals, and for prisoners who had been unjustly accused. The honourable Member having been so kind as to send me a copy of the second part of M. Beranger's work "De la Repression Pénale,"* of which before I had read only extracts, I am able to correct my evidence in that particular by directing the attention of the Committee to the author's account of the institution called "La Solitude de Nazareth." It was founded by the Abbé Conral, aided by the subscriptions of charitable persons; the date is not given. It is situated at a short distance from Montpellier, and the house is in the middle of an enclosure of 7 hectares (about 17½ acres). All women discharged from the Central Prison of Montpellier or from other prisons (meaning probably the other prisons of the same district), are admitted if they desire to enter. Unmarried women, also, feeling themselves in danger in the world, are freely received. To these two classes are added that of young female offenders below 16, acquitted as having acted *sans discernement*, who are detained for a term which cannot exceed the completion of their twentieth year. The labours of each inmate are regulated by her capacity and her requirements. Those to whom bodily activity is necessary have charge of the garden, the vineyard, the olive trees, and the poultry-yard; the rest are employed in needlework. When the author visited the establishment, the number of inmates exceeded 200. M. Beranger speaks in very high terms of the success of this institution. By the year 1852, 360 of the inmates had been restored to their families or placed under the care of respectable employers. Of this number, he says, only six had relapsed.

Such establishments, he justly observes, cannot be too extensively multiplied. It has been remarked, he adds, that since the foundation of the "Solitude de Nazareth," the number of female convicts returning again to the central prison of Montpellier has sensibly diminished.

Both

* "De la Repression Pénale, de ses Formes et de ses Effets." Rapport fait à l'Académie des Sciences morales et politiques, par M. Beranger, Membre de l'Institut, Président de la Cour de Cassation. 2eme Partie, Paris, 1855.

Appendix, No. 1.

Both in this part of his work as elsewhere, M. Beranger earnestly recommends similar asylums for discharged male convicts. When treating of Sociétés de Patronage, he insists that their founders ought to be left at perfect liberty. Charity, he says, is not brought into existence by decrees; it cannot be imposed on its votaries; its movements must be unshackled; it is unwilling to submit to the orders of this or that functionary, or that its actions should be directed by those whose position rather than their sympathies would clothe with power.

With regard to relapses, there is a passage tending in some degree to allay the anxiety which many may feel when they read the table of increase given by Captain Whitty (1st Report, p. 81). In general, the author says, it is during the first and second years of their discharge that convicts commit new offences. Very few are recommitted in the following years. He then gives the numbers: 13 per cent. in the first year, 12 in the second, 6 in the third, 4 in the fourth, and 2 in the fifth; altogether, 37 per cent. These per-centages, it is to be hoped, will be much diminished in England. Probably, however, the relative proportions between one year and another will remain the same in both countries.*

M. Beranger supports the testimony of Captain Whitty and Colonel Montesinos as to the ill-consequences which have arisen from diminishing the number of liberations for good conduct.

The number of pardons, he says, granted by the Crown to the forçats has a tendency to decrease year by year. In the four years preceding 1850 the average was 166. In that year, however, it was only 48, and in 1851, 23. The number has been still further lowered since that time; and the authorities of the Bagnes have warned the Government that the decreasing numbers of the pardons is too remarkable not to be noticed by the convicts, who are thus discouraged, and urged to attempt their escape, or reduced to despair.

But although M. Beranger appears to disapprove of the restriction on pardons, as enfeebling the motives to well-doing, he approves of another arrangement which I must confess appears to me equally objectionable in principle if not in degree. The convict in France is allowed a *peculium* out of the proceeds of his labour, the proportion varying inversely with the magnitude of his offence. This principle was, however, shown by statements in the Report of M. de Persigny, Minister of the Interior, on the state of prisons in 1852, to work very ill, relaxing almost to nothing the industry of the most guilty class, the forçats.

M. Beranger does not controvert these facts, nor, indeed, allude to the statement in M. de Persigny's Report, although he arrives at a conclusion opposed to that to which they so obviously carry the mind.

The convict, as M. Beranger himself observes, has no right to any portion of the profit drawn from his labour until he has defrayed the expenses of his trial, the cost of his maintenance in prison, and until he has indemnified the party injured by his offence. Still, as he justly adds, society has so deep an interest in the reformation of criminals that it is wise to supply them with all the requisite motives to industry and good conduct. As, then, no prisoner has a right to any portion, because no prisoner ever does defray the expenses to which the author refers, it is quite clear that the allowance to be made should, in all cases, be as small as will produce the desired effect; for when it is larger the surplus is a donative to the evil-doer not required for any good purpose. On the other hand, if the allowance be insufficient to produce the requisite stimulus, the convict relaxes his exertions, acquires no attachment to labour, no habits of industry, and thus whatever is given to him by the State is thrown away. Here, then, is one of the illustrations which meet us at every turn of the illusory consequences which wait on the attempt to bring into harmony two principles in the treatment of criminals essentially at variance with each other. If we deal with the convict on the principle of retribution, or, if we inflict upon him, for the sake of example, pain greater in quantity or different in kind from what is called for in the process of his reformation, so be it; our proceedings may be made consistent and intelligible, although, if history may be trusted, our success will be far from splendid. But let us not deceive ourselves into the belief that the criminal, while under the influence of that pain to which I have just adverted, will make much progress in reformation. Peace and good feeling between his guides and himself are indispensable to keep him in the right way; hostility is fatal. Now, any amount of suffering which the criminal undergoes, as incident to his cure, he no more resents than the patient resents the operations of the surgeon. Whatever is done for his benefit, however hard of endurance, carries with it its own consolation. He may feel that he is paying a high price, but he knows that he is ensuring to himself a great benefit; whereas the consciousness that he is suffering pain administered on the deterrent principle cannot reasonably be expected to fill his mind with any emotions except those of fear and hatred; emotions which leave his desires and his habits unchanged, and with a strong tendency to become unchangeable.

I have, &c.
(signed) *M. D. Hill.*

* Repression Pénale, 2eme. Partie, p. 406.

## Appendix, No 2.



LETTER from the Right Hon. Earl *Grey* to the Right Hon. *M. T. Baines*, M.P., Chairman; with an Enclosure.

My dear Sir, Howick, 5 June 1856.

I MEANT, when I returned my evidence, with the corrections it required, to have sent at the same time a sketch of the sort of Act of Parliament which I think ought to be immediately passed, but I was so much occupied the last days I was in London, that I was not able to write the sketch I had intended of a short Bill. I now enclose one which I have prepared. I have not attempted to put it into strictly correct legal language, but merely drawn up a slight sketch, which will explain to you the mode in which I think the subject ought to be dealt with. I consider it very important that, in providing for the prolongation of sentences of penal servitude it should be distinctly stated in the Preamble that the object of the change is not practically to prolong the actual punishment of those convicts who behave well, but to make their discharge at a comparatively early period depend upon their own conduct, instead of being a matter of right. The more I consider the subject, the more persuaded I am that, whatever else may be done, there can be no doubt as to the expediency of immediately authorising this prolongation of sentences, in order that the system of 1847 and 1848, for bringing the hope of earlier release into play, in order to stimulate the convicts to industry and good conduct, may be re-established. If this is not done, be assured that all our penal establishments will speedily relapse into disorder. I hope, therefore, that your Commissioners (reserving the consideration of other questions, if necessary) will at once make a short report, recommending an alteration to this extent, so that a Bill may be passed during the present Session. The evidence given by Colonel Jebb, and still more the facts stated in the Annual Report of the Directors of Convict Prisons, by Captain Whitby and by the Chaplains, fully support the opinion I have expressed, and would afford ample foundation for such a report as I recommend to you. The Session is getting on so fast, that unless you report immediately, there would be no chance of passing a Bill this year, and I am sure it will be a great public misfortune if it is postponed to another.

Yours, very faithfully,
(signed) *Grey.*

(Enclosure.)

WHEREAS it is expedient that the Act passed in the year 1853, for the substitution of the punishment of penal servitude for that of transportation should be amended, in order to afford greater facility for encouraging good conduct in convicts sentenced to penal servitude, by holding out to them the prospect of obtaining by such conduct a mitigation of their punishment, be it therefore enacted, — [The proper title of the Act should, of course, be given.]

I. That so much of the said Act as provides that four years' penal servitude shall be a substitute for seven years' transportation, and that a corresponding reduction shall be made in the length of other sentences of transportation when penal servitude is substituted, shall be repealed.

II. That no sentence of penal servitude shall be for a shorter period than seven years, and that for all offences formerly punishable by transportation, convicts may hereafter be sentenced to penal servitude for the same number of years as they would have been sentenced to transportation previously to the passing of the above Act of 1853.

III. That it shall be lawful for Her Majesty to direct the punishment of penal servitude to be inflicted on convicts so sentenced in any penal establishment in Her Majesty's dominions within or without the United Kingdom. [I doubt whether this clause would be necessary; if not, it ought to be omitted.]

IV. That it shall be lawful for Her Majesty to grant to convicts sentenced to penal servitude a remission of such portion of the said punishment as She may think fit, on condition of their residing in any of Her Majesty's colonies which may be open for their reception, and to which they may be sent by Her Majesty's direction.

V. Her Majesty shall be empowered to exercise, with regard to convicts sentenced to penal servitude and so sent to any of Her Majesty's colonies, the same power and authority with which She is by law invested with respect to convicts sentenced to transportation.

## Appendix, No. 3.

### TICKETS OF LEAVE.

Appendix, No. 3. STATEMENT showing the Number and Proportion of Ticket-of-Leave Men Released in different Counties.

| COUNTIES. | Population. | Number of Convicts Released by Licence since 1st October 1853, to the 31st December 1855. | Proportion per 10,000. | Probable Number of Offenders Convicted in each County, and sent to Ordinary Prisons during the same Period; viz. 1 Oct. 1853, to 31 Dec. 1855. | Proportion per 10,000. |
|---|---|---|---|---|---|
| Bedford | 124,478 | 13 | 1· | 474 | 40 |
| Berks | 170,065 | 58 | 3·4 | 816 | 48 |
| Bucks | 163,723 | 26 | 1·6 | 614 | 38 |
| Cambridge | 185,405 | 53 | 2·9 | 627 | 35 |
| Chester | 455,725 | 68 | 1·5 | 2,467 | 51 |
| Cornwall | 355,558 | 21 | ·6 | 605 | 17 |
| Cumberland | 195,492 | 10 | ·5 | 352 | 18 |
| Derby | 296,084 | 37 | 1·2 | 663 | 22 |
| Devon | 567,098 | 98 | 1·7 | 1,885 | 33 |
| Dorset | 184,207 | 28 | 1·5 | 828 | 46 |
| Durham | 390,997 | 42 | 1·07 | 792 | 20 |
| Essex | 369,318 | 69 | 1·9 | 1,516 | 41 |
| Gloucester | 458,805 | 64 | 1·4 | 2,180 | 47 |
| Hants | 405,370 | 130 | 3·2 | 1,624 | 40 |
| Hereford | 115,489 | 22 | 1·9 | 578 | 48 |
| Hertford | 167,298 | 44 | 2·6 | 870 | 51 |
| Huntingdon | 64,183 | 12 | 1·9 | 283 | 47 |
| Kent | 615,766 | 102 | 1·6 | 2,502 | 46 |
| Lancaster | 2,031,236 | 557 | 2·7 | 7,771 | 38 |
| Leicester | 230,308 | 53 | 2·3 | 772 | 33 |
| Lincoln | 407,222 | 65 | 1·6 | 1,128 | 28 |
| Middlesex | 1,886,576 | 926 | 4·9 | 9,011 | 47 |
| Northumberland | 303,568 | 65 | 2·1 | 798 | 27 |
| Nottingham | 270,427 | 55 | 2· | 902 | 33 |
| Norfolk | 442,714 | 73 | 1·7 | 1,753 | 40 |
| Northampton | 212,380 | 42 | 2· | 661 | 31 |
| Oxford | 170,439 | 42 | 2·4 | 704 | 41 |
| Rutland | 22,983 | 4 | 1·7 | 60 | 30 |
| Salop | 229,341 | 31 | 1·3 | 643 | 28 |
| Somerset | 443,916 | 211 | 4·7 | 1,611 | 36 |
| Stafford | 608,716 | 146 | 2·4 | 2,558 | 41 |
| Suffolk | 337,215 | 63 | 1·9 | 1,300 | 38 |
| Surrey | 683,082 | 104 | 1·5 | 2,781 | 41 |
| Sussex | 336,844 | 38 | 1·1 | 1,252 | 37 |
| Warwick | 475,013 | 198 | 4·2 | 2,151 | 46 |
| Westmoreland | 58,287 | 9 | 1·5 | 132 | 22 |
| Wilts | 254,221 | 52 | 2·4 | 848 | 34 |
| Worcester | 276,926 | 66 | 2·3 | 1,338 | 48 |
| York | 1,797,995 | 311 | 1·8 | 4,700 | 26 |
| Wales | 1,163,418 | 96 | ·82 | 3,340 | 29 |
| | 17,927,888 | 4,104 | 2·3 | 65,890 | 37 |
| Scotland | 2,888,742 | 527 | 1·8 | | |

## Appendix, No. 4.

PAPER delivered in by Sir *Richard Mayne*, K.C.B., 19 June 1856. Appendix, No. 4.

REPORTS by SUPERINTENDENTS of the Number of TICKET-OF-LEAVE CONVICTS residing on their respective Divisions; and Opinions as to their Means of gaining a Livelihood.—January 1856.

### A. DIVISION.

I BEG to report that, after careful inquiry, it is found there are no ticket-of-leave men residing on this division.

25 January 1856. *Robert Walker*, Superintendent.

### B. DIVISION.

RETURN of TICKET-OF-LEAVE MEN living on and frequenting this Division.

| NAME. | Date of Conviction and Nature of Offence. | REMARKS. |
|---|---|---|
| P. Q. - - - | 1 August 1849. Larceny - | No means of living. |
| J. C. - - - | February 1848. Larceny - | Occasionally works. |
| J. C. - - - | April 1849. Larceny - - | No means of living. |
| H. F. - - - | June 1852. Larceny - - | No means of living. |
| T. J. - - - | February 1852. Larceny - | Occasionally works. |
| J. S. - - - | June 1852. Highway robbery | No means of living. |
| W. C. - - - | November 1852. Larceny - | Occasionally works. |
| J. S. - - - | October 1850. Larceny - | Occasionally works. |
| W. H. - - - | January 1853. Larceny - | Occasionally works. |
| E. H. - - - | April 1851. Larceny - - | - - Living with a prostitute; no other means of living. |

16 January 1856. *W. M. Gipps*, Superintendent.

### C. DIVISION.

I HAVE not been able to ascertain that any returned convicts reside on this division.

4 February 1856. *N. Smith O'Brien.*

## D. Division.

LISTS of Persons at large on Ticket-of-Leave in the above Division.

| NAME. | Where Tried. | Date. | Offence. | Sentence. | REMARKS. |
|---|---|---|---|---|---|
| E. T. - | Clerkenwell - - | 24 Oct. 1849 | Larceny - - | 7 years - | Occasionally works as a painter's labourer. |
| C. R. - | Newgate - - | 12 July 1850 | Burglary - - | 10 years - | Loiters about the Edgware-road, carrying parcels, &c. |
| T. C. - | Newgate - - | 12 Oct. 1850 | Larceny - - | 7 years - | Not known to do any work. |
| W. C. - | Westminster - | 2 Sept. 1851 | Larceny - - | 7 years - | Not known to do any work. |
| W. T. *alias* S. | Horsemonger-lane - | 20 Oct. 1851 | Larceny - - | 7 years - | Not known to do any work. |
| J. H. - | Newgate - - | 12 Jan. 1850 | Larceny - - | 7 years - | Does no work. |
| G. C. - | Westminster - | 12 Jan. 1852 | Larceny - - | 7 years - | Not known to do any work. |
| J. M. - | Westminster - | 31 May 1852 | Burglary - - | 7 years - | Not known to do any work; a very dangerous fellow. |
| J. P. - | Newgate - - | 22 Sept. 1852 | Highway robbery - | 7 years - | Works as a costermonger. |
| M. K. - | Newgate - - | 7 Mar. 1850 | Picking pockets - | 7 years - | Since apprehended at Winchester for larceny, and tried there on the 2d January 1856, and sentenced to three months' imprisonment. P. C., 95 D, William Shrubb, proved the former conviction. |
| R. W. - | Westminster - | - - - | Plate robbery - | 7 years - | Left the neighbourhood; not known where residing. |
| J. P. - | Westminster - | - - - | Picking pockets - | 7 years - | Left the neighbourhood; supposed living over the water, and associating with thieves. |

The above is a rough list of persons who are known to the serjeants and constables of this division. Many of them were several times in custody for felony before they were transported, and very few of them now appear to have any visible means of subsistence. There are also several other suspicious men about, and who associate with receivers and burglars; and I am told that some of them are license or ticket-of-leave holders.

I beg to state that the duty performed some time ago from Bow-street station, of having one or two experienced constables from the town divisions to patrol the different divisions whereon thieves are known to reside, and thus pointing out to each other the different known characters, would have a good effect to the force at large.

Some of the license-holders have no doubt migrated to other parts of the metropolis from where they originally resided, and who are now following their old practices, would by this means become known to the police of the division whereon they now reside, and who would consequently be better able to notice their actions.

7 January 1856.

(signed) *Sol. Harmant*, Inspector.
*Samuel Hughes*, Superintendent.

## E. Division.

I beg to report that there are four convicts on ticket-of-leave known as residing on this division, two of whom are the constant associates of thieves; and one we have not as yet had an opportunity of observing his conduct; the other is now in prison for a violent assault on the police, the particulars of which have already been reported to the Commissioners, and is also an associate of thieves.

4 January 1856.

(signed) *R. Havard*,
Inspector, for Superintendent.

Appendix, No. 4.

## F. Division.

RETURN of Convicts on Tickets-of-Leave in the above Division.

| NAME. | Date of Ticket-of-Leave, and Particulars of Convictions, &c. | REMARKS. |
|---|---|---|
| R. W. - - | Was liberated on ticket-of-leave on the 2d December 1854. Number of ticket, 2,017. He is the constant associate of thieves, and has not followed any lawful occupation since his return from transportation.<br>He was convicted, on the 22d May 1855, for a violent assault on a police constable in Charles-street, Drury-lane, and committed for one month with hard labour.<br>Also apprehended on a warrant, on the 1st July 1855, for being in company with several well-known thieves, and assaulting a police constable; committed for one month with hard labour. The above specially reported at the time. | This man's license is revoked, and a warrant issued for his apprehension; but he has absconded. |
| E. M. - - | Was liberated on ticket-on-leave on the 7th of March 1854. Number of ticket, 554. Transported for 10 years in 1848, having been previously transported.<br>Was committed from Bow-street Police Court on the 2d of October 1854, and sentenced to two months with hard labour, for having in his possession a church service, and not giving a satisfactory account of the same.<br>He does not follow any occupation, and is still suspected of being a thief. | |
| J. W. - - | Was liberated on ticket-of-leave on the 17th November 1855. Number of ticket, 4,529. He immediately on his return cohabited with a notorious thief and prostitute, named J. P., and does not follow any lawful occupation at present. | |
| C. G. - - | Was liberated on ticket-of-leave on the 28th of September 1855, having been transported for burglary. Number of ticket, 3,963.<br>He does not follow any lawful calling. Since his return he has been the constant and daily associate of thieves, and other notoriously bad characters. | |
| J. C. - - | Was liberated about 18 months since on ticket-of-leave. Is keeper of a shop for the sale of second-hand clothes, and has frequently been seen in the company of convicted thieves. | |
| J. G. - - | Was transported in 1851, and liberated on ticket-of-leave, No. 2,692, on the 4th April 1855.<br>He is lodging with a convicted thief named J. W., and supposed to gain his living by hawking obscene cards, and prints, and songs at night public-houses. Is cohabiting with a prostitute, who has been convicted. | |
| T. C. - - | Was liberated on ticket-of-leave about three months since. Is employed as a messenger or porter, and appears to be gaining an honest living. | |
| T. N. - - | Was liberated from Woolwich on ticket-of-leave about two months since. At present he does not follow any employment. | This man's return being so recent, no decided opinion can be expressed relative to him. |

*T. Wm. Prior*, Superintendent.

Appendix, No. 4.

## G. Division.

RETURN of Ticket-of-Leave Convicts living on above Division.

| Name. | Remarks. |
|---|---|
| W. J. - - - - | These men, with the exception of "J.," who keeps a marine-store shop, are known to the police as the associates of thieves, since they have received their licenses. |
| M. B. - - - - | |
| W. R. - - - - | |
| J. M. - - - - | It is believed that "B.," "R.," and "M." live solely by thieving. "W." is employed at the R—— C—— H——, O—— s——, where thieves, &c., resort, and is suspected of having committed a robbery a short time since, and is under observation. |
| W. W. - - - - | |
| J. O'D. - - - - | |
| A. B. - - - - | |
| C. M'C. - - - - | |
| C. M. - - - - | |
| T. B. - - - - | |

9 January 1856. *G. Martin*, Superintendent.

## H. Division.

I beg to report that there are 16 ticket-of-leave convicts in this division, three of whom are getting their living honestly; the remaining 13 have no settled place of abode.

12 January 1856. *James Steed*, Superintendent.

## K. Division.

A LIST of Persons who have returned from Transportation on Ticket-of-Leave, known to the Police, and now residing in this Division.

| Name. | Present Means of Subsistence. | Remarks. |
|---|---|---|
| J. P. - - - - | Respectably employed. | |
| J. L. - - - - | Ditto. | |
| J. H. - - - - | Ditto. | |
| S. C. - - - - | Ditto. | |
| A. R., *alias* R. - - - | A cab-proprietor - - - | Keeps a brothel, which has been reported. |
| T. C. - - - - | Respectably employed. | |
| M. C. - - - - | Doubtful. | |
| H. F. - - - - | Ditto - - - - - | Have since been in custody for stealing from the person, but discharged. |
| J. H. K., *alias* C. - - | Ditto - - - - - | |
| J. R. - - - - | Ditto. | |
| T. B., *alias* P. - - - | In Tower Hamlets Militia. | |
| W. A. - - - - | Doubtful. | |
| C. D. - - - - | Ditto. | |

17 January 1856. *David Howie*, Superintendent.

## L. or LAMBETH Division.

RETURN of Ticket-of-Leave Convicts residing on the above Division.

| Name. | Occupation. | Remarks. |
|---|---|---|
| T. C. - - - - | Hawker - - - - | Observation has been kept upon these men by the police of this division, but nothing has come under their notice which would justify their interference. |
| T. M. - - - - | Brothel-keeper - - - | |
| E. S. - - - - | Retailer of beer - - - | |

7 January 1856. *James Evans*, Superintendent.

## M. Division.

RETURN of Ticket-of-Leave Convicts known to the Police in the above Division.

| NAME. | REMARKS. |
|---|---|
| T. I. - - | Tried and convicted at Kingston in 1851, and transported for seven years. P. S. 17 L., Rawles. Charged at Stonesend Station and discharged for unlawfully possessing a teapot. P. C. 130 M., Pomeroy. Charged on the 3d of January 1856 at Stonesend Station, by Serjeant Hewlett, for unlawfully possessing a bottle of oil and some camphor; two months. This man is a constant associate of thieves. |
| R. A. - - | Supposed to have been convicted at the Quarter Sessions at Birmingham in 1850, and sentenced to transportation; has no visible means of obtaining a livelihood, and is a constant associate of thieves. |
| D. R. - - | Has no visible means of obtaining a living; is a constant associate of thieves, and is supposed to be living by these means. |
| W. C. - - | Is a constant associate of thieves, and is supposed to be living by thieving. |
| H. B. - - | Is an associate of thieves, and is supposed to be living by thieving. |
| W. C. - - | Is an associate of thieves, and is supposed to be living by thieving. |
| J. D. - - | Is living with his brother, and has not been seen in the company of thieves since his return. |
| J. G. - - | Is in constant work at S—— W——, T—— S——. |
| T. F. - - | This man sometimes works at the wood-cutting; he is an associate of thieves; was charged at Rotherhithe Station on the 17th instant, with having 37 lbs. of lead in his possession, and not satisfactorily accounting for the same; remanded by G. A. A'Beckett, Esq., at the Southwark Police Court, till the 24th instant, and then discharged. |
| M. M. - - | These persons are but recently returned, and have not been seen in bad company, nor is it known that either has committed any offence since their return. |
| B. M. - - | |
| W. F. - - | |

27 January 1856.

*B. Branford*, Inspector,
For Superintendent, sick.

## N. Division.

RETURN of the Number of Ticket-of-leave Convicts residing in the above Division, as far as can be ascertained by the Police.

| NAME. | REMARKS. |
|---|---|
| W. G. - - - | Supported by his friends. |
| G. H. - - - | Works as a shoemaker. |
| W. B. - - - | A farmer's labourer. |
| J. W. - - - | These men are living with prostitutes, and are occasionally seen with thieves. |
| M. B. - - - | |

28 January 1856.

*John Beckerson*, Superintendent.

## P. Division.

I beg to report, in reference to ticket-of-leave convicts, that there are about 20 residing in the Walworth Sub-division, most of their names and residences being known to the police of Walworth. Out of that number only five are known to the police as obtaining their livelihood in an honest manner, the remainder having no visible means of subsistence.

| NAME. | REMARKS. |
|---|---|
| T. E. - - - - - | Assists his father, general dealer. |
| G. R. - - - - - | Costermonger. |
| A. M. - - - - - | Assisting cab-yard horsekeeper. |
| J. F. - - - - - | Assisting at a laundry. |
| J. D. - - - - - | Working as an excavator. |

7 January 1856.

*John Lund*, Superintendent.

Appendix, No. 4.

## R. Division.

### Ticket-of-Leave Convicts.

The result of my inquiries with reference to ticket-of-leave convicts is as follows:

One only resides in this division; he is employed by the parish, working on the roads, and living a steady irreproachable life.

Two have been apprehended and charged, with results as given on the other side.

Out of the division, in an adjoining parish (Cudham), a murder was perpetrated by R. P., a ticket-of-leave convict, but he escaped on trial, the evidence (entirely circumstantial) being insufficient; he was, however, subsequently committed for a burglary in Gloucestershire, and now awaits his trial.

His was one of the worst cases within my knowledge, as in the comparatively brief period after his release, with a ticket, he committed a great many burglaries, and ended by the perpetration of murder.

*Thos. Mallalieu.*

---

A. P., gunner and driver, Royal Artillery, received his ticket-of-leave from Portland prison. He deserted from the above corps on the 7th January 1856; apprehended in Whitechapel, on 10th January, and handed over to military authorities by order of the magistrate, J. O. Secker, Esq., at Woolwich police court.

G. J., *alias* C. C., sentenced on 3 March 1851, at Central Criminal Court, to seven years' transportation; apprehended at Woolwich, on 24 December last, for attempting to pick pockets, and sentenced to three months' imprisonment by J. O. Secker, Esq.

*Thos. Mallalieu.*

---

## S. Division.

I beg to report for information of Commissioners, that there are seven ticket-of-leave convicts known to police, and living on this division.

With the exception of one, they all seem to be following their usual habits; none appearing to follow any employment.

8 January 1856. *Jno. Loxson,* Superintendent.

---

## T. Division.

I beg to state for the information of Sir Richard Mayne, with reference to ticket-of-leave men, that there are three only residing in the above division, all of whom are getting an honest living.

5 January 1856. *E. Tarlton,* Superintendent.

---

## V. Division.

RETURN of the Number of Ticket-of-leave Men, known to the Police as residing in the above Division.

| Name. | Employment, &c. | Remarks. |
|---|---|---|
| T. T. - - | Farming labourer - - - | Conduct appears to be good. |
| T. S. - - | Shoemaking - - - - | - - Ditto. |
| T. B. - - | - - Associate of prostitutes, and lives by their earnings. | |
| T. C. - - | - - Ditto - - - - | - - Undergoing three months' imprisonment in Wandsworth House of Correction for being found on premises at night, for the purpose of committing felony. |

10 January 1856. *Septimus Fenn,* Superintendent.

RETURN of the Number of Persons recognised as having been in Custody more than Once, for FELONY, during the last Seven Years.

| YEARS. | TWICE. | | | | | | | | | | THREE TIMES. | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Under 10. | 10 to 15. | 15 to 20. | 20 to 25. | 25 to 30. | 30 to 40. | 40 to 50. | 50 to 60. | 60 and upwards. | TOTAL. | Under 10. | 10 to 15. | 15 to 20. | 20 to 25. | 25 to 30. | 30 to 40. | 40 to 50. | 50 to 60. | 60 and upwards. | TOTAL. |
| 1849 - | 4 | 108 | 208 | 161 | 65 | 66 | 27 | 3 | 6 | 648 | 2 | 26 | 42 | 29 | 21 | 6 | 5 | – | – | 131 |
| 1850 - | 11 | 89 | 244 | 132 | 60 | 53 | 15 | 11 | 1 | 616 | 1 | 22 | 39 | 31 | 21 | 7 | 2 | – | 1 | 124 |
| 1851 - | 3 | 134 | 190 | 121 | 65 | 61 | 25 | 14 | 10 | 623 | 1 | 27 | 31 | 20 | 17 | 9 | 6 | 1 | – | 112 |
| 1852 - | 7 | 112 | 161 | 122 | 60 | 48 | 20 | 13 | 2 | 545 | 3 | 25 | 39 | 18 | 13 | 5 | 2 | 2 | – | 107 |
| 1853 - | 13 | 103 | 155 | 120 | 49 | 48 | 23 | 12 | 3 | 526 | 3 | 22 | 38 | 20 | 10 | 8 | 2 | 2 | – | 105 |
| 1854 - | 15 | 140 | 220 | 137 | 52 | 51 | 27 | 8 | 7 | 657 | 10 | 53 | 42 | 19 | 11 | 8 | 4 | 2 | 1 | 150 |
| 1855 - | 6 | 152 | 193 | 105 | 45 | 45 | 23 | 8 | 5 | 582 | 3 | 46 | 40 | 21 | 7 | 3 | 7 | 2 | – | 129 |
| TOTAL for Seven Years - | 59 | 838 | 1,371 | 898 | 396 | 372 | 160 | 69 | 34 | 4,197 | 23 | 221 | 271 | 158 | 100 | 46 | 28 | 9 | 2 | 858 |

| YEARS. | FOUR TIMES. | | | | | | | | | FIVE TIMES AND UPWARDS. | | | | | | | | GENERAL TOTAL. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Under 10. | 10 to 15. | 15 to 20. | 20 to 25. | 25 to 30. | 30 to 40. | 40 to 50. | 50 to 60. | TOTAL. | 10 to 15. | 15 to 20. | 20 to 25. | 25 to 30. | 30 to 40. | 40 to 50. | 50 to 60. | TOTAL. | |
| 1849 - | 1 | 7 | 14 | 6 | 8 | – | 1 | – | 37 | 1 | 6 | 4 | – | – | – | – | 11 | 827 |
| 1850 - | – | 10 | 9 | 9 | 2 | 2 | 1 | – | 33 | 2 | 5 | – | 2 | – | 1 | – | 10 | 783 |
| 1851 - | – | 7 | 8 | 2 | 5 | 1 | – | – | 23 | 4 | 4 | 4 | – | 2 | – | – | 14 | 772 |
| 1852 - | – | 8 | 10 | 7 | 3 | 2 | 1 | – | 31 | 6 | 10 | 7 | 5 | – | 1 | 1 | 30 | 713 |
| 1853 - | 1 | 6 | 5 | 3 | 2 | 1 | – | – | 18 | 1 | 1 | 8 | 2 | 2 | – | – | 14 | 663 |
| 1854 - | 2 | 11 | 13 | 3 | 2 | – | – | – | 31 | 1 | 2 | 3 | 1 | – | – | – | 7 | 845 |
| 1855 - | – | 15 | 10 | 1 | 1 | 1 | 1 | 1 | 30 | 2 | – | 1 | 1 | 1 | – | – | 5 | 746 |
| TOTAL for Seven Years - | 4 | 64 | 69 | 31 | 23 | 7 | 4 | 1 | 203 | 17 | 28 | 27 | 11 | 5 | 2 | 1 | 91 | 5,349 |

## Appendix, No. 5.

Appendix, No. 5.

### REPORT.

23 June 1856.

Serjeant William Smith, detective, begs to state in reference to the annexed letter, that he has made inquiry of the writer, who stated it was his own writing, and the offence he was charged of committing was for robbing his employers, Messrs. Smith & Co., No. 83, Queen-street, City, on the 14th March 1853, and sentenced to eight months' imprisonment.

This statement the Serjeant found to be correct on inquiry at Bow-lane Police Station.

With reference to his brother that he states was transported for seven years, on inquiry at Mr. Brooks & Son, linen-drapers, No. 156, High-street, Borough, the Serjeant finds such was the case, and was charged at Southwark Police Court, afterwards tried at Horsemonger-lane Sessions, where he received the above sentence in the year 1847.

*Stephen Thornton,*
Inspector.

---

15, E—— S——, M———— S——,
16 June 1856.

Sir,

Last Thursday I was present at the Transportation Committee, and heard the evidence given of Mr. Thwaites, the schoolmaster of the "Stirling Castle," and have to subscribe to its truthfulness.

A few years since I had a brother transported for seven years, who, were he now in England, would, I am assured, testify to the benefits accruing from transportation. Before sent away, he learnt the tailoring at the Model Prison, Pentonville, which has proved a great service; he was there two years; shipped from Deptford. During the voyage to Australia was appointed schoolmaster; earned the prize of 5*l.* offered by some gentleman for the best essay on the "Causes of Crime," and on arrival in Australia was granted the privileges of the then system, and is now doing well in that colony. He has only written four times, but in all he speaks, not of the horrors, but the benefits of transportation. Perhaps you will think he has good reason; but, sir, the tremendous prison discipline at home had the effect in preparing him for any hardships he might have been called to undergo; but there's no disputing the fact, he is now a better man.

Permit me now to mention my own experience. Three years ago I underwent an imprisonment of eight months with hard labour, at the New City Prison at Holloway, and here I must speak to (in my case) the benefits of the solitary confinement; was never more composed in my life; away from others; had time to enter more into myself, and soon learnt the sources of my weakness and of my strength. Give prisoners more of this, and not keep them together, not for an hour, and salutary effects must follow. I was remanded to Newgate till the sessions, and, strange, till my committal, was kept alone in a cell, but after was put into a ward with eight others; and I have no hesitation in saying, that had I remained there much longer, should have become a confirmed criminal. The habit was to learn pocket-picking and other crimes; concocting means of escape, and talking over the varied amounts of punishments allotted to each individual case. Do, sir, strike at this evil; whether in the hulks or prisons, do away with association.

While in Newgate, there is no doubt transportation was dreaded, and when that sentence was passed have seen the old and hardened criminal in tears; but even then, hope of getting two out of seven remitted (as in the ticket-of-leave system) was to them as the bright light in the cloud. Don't take away hope from a criminal; it even cheered me whilst awaiting my sentence, as I lay on my pallet of straw, that after suffering my term (if transported), should by good conduct have a remission.

It is true that even the most educated and respectable, from association in prison, come down as low as the common thief. I know a banker's clerk in this position.

I think transportation better than the ticket-of-leave system, and penal servitude, without hope, altogether wrong.

The idea of places of employment after quitting prison most excellent; in my case, since restoration to society, have never been enabled to obtain employment, but by vending articles in the street, have eked out a very slender existence for self, wife, and child; would to heaven I could procure a certainty in any capacity, however humble; would it be too much to ask your sympathy? I apologise for the liberty taken, and am, Sir,

Your most obedient,
*T—— K——.*

To the Chairman of
the Transportation Committee.

# THIRD

# REPORT

FROM THE

SELECT COMMITTEE

ON

# TRANSPORTATION;

*TOGETHER WITH THE*

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

AND APPENDIX.

*Ordered, by* The House of Commons, *to be Printed,*
11 *July* 1856.

*Jovis*, 3° *die Aprilis*, 1856.

*Ordered*, That a Select Committee be appointed to inquire into the Provisions and Operation of the Act 16 & 17 Vict. c. 99, intituled "An Act to substitute in certain Cases other Punishment in lieu of Transportation."

*Martis*, 8° *die Aprilis*, 1856.

Committee nominated of,—

Mr. Baines.
Sir John Pakington.
Mr. Scott.
Mr. Wortley.
Sir William Heathcote.
Mr. Adderley.
The Lord Advocate.
Mr. Serjeant O'Brien.
Mr. Henley.
Mr. Wickham.
Mr. John Wynne.
Mr. Massey.
Mr. Beckett Denison.
Mr. Deedes.
Mr. Seymour Fitzgerald.

*Ordered*, That the Committee have power to send for Persons, Papers, and Records.

*Ordered*, That Five be the Quorum of the Committee.

*Jovis*, 10° *die Aprilis*, 1856.

*Ordered*, That Mr. Scott be discharged from further attendance on the Committee, and that Lord Naas be added thereto.

*Martis*, 15° *die Aprilis*, 1856.

*Ordered*, That the Committee do consist of sixteen Members, and that Mr. Monckton Milnes be added thereto.

*Ordered*, That Sir William Heathcote be discharged from further attendance on the Committee, and that Mr. Ker Seymer be added thereto.

*Jovis*, 22° *die Maii*, 1856.

*Ordered*, That the Committee have power to Report the Minutes of Evidence taken before them, from time to time, to The House.

REPORT - - - - - - - - - - - - - p. iii
PROCEEDINGS OF THE COMMITTEE - - - - - p. v
MINUTES OF EVIDENCE - - - - - - - - - p. 1
APPENDIX - - - - - - - - - - - p. 41

# THIRD REPORT.

THE SELECT COMMITTEE appointed to inquire into the Provisions and Operation of the Act 16 & 17 Vict., c. 99, intituled, "An Act to substitute in certain Cases other Punishment in lieu of Transportation," and who were empowered to Report the MINUTES of EVIDENCE taken before them, from time to time, to The House:——HAVE considered the Matters to them referred, and have agreed to the following RESOLUTIONS:

1. THAT the punishment of *Transportation* is more effectual and deterring, better adapted for the ultimate reformation of convicts, and more beneficial to this country, than any other secondary punishment for serious crimes which has yet been tried.

2. That the Committee therefore recommend the continuation of the sentence of Transportation, so far as Her Majesty's dominions may afford safe and proper facilities for that purpose.

3. That if such facilities can be obtained, sentences of Ten years' Transportation should be revived.

4. That convict prisons beyond the seas ought to be regarded as places for carrying out the sentence of Transportation.

5. That every punishment by *Penal Servitude* should include, first, a certain fixed period of imprisonment and hard labour on public works, to be undergone at all events; secondly, a further period, which should be capable of being abridged by the good conduct of the convict himself.

6. That it appears, from the evidence before the Committee, that bad effects upon the discipline of convicts on the public works have already been caused by the regulations under which it has been made known that no tickets of leave, or other remission of sentence, would in any case be granted to men sentenced to penal servitude.

7. That, with a view to give full effect to the principle, indicated in Resolution 5, the sentences of Penal Servitude prescribed by the Act should be changed and lengthened, so as to be identical with the terms of Transportation for which they are respectively substituted.

8. That the sentences of Penal Servitude now in force might be adopted, with some few changes, as the fixed periods recommended in Resolution 5.

9. That the scale of secondary punishment would be more complete if a shorter period of Penal Servitude than any now in force were enacted, as an intermediate sentence between the present term of ordinary imprisonment now usually inflicted, and the former sentence of Seven years' Transportation, or its equivalent.

10. That the Hulk system, which appears by the evidence to be already, in a great measure, relinquished, should be finally abandoned, with as little delay as possible.

11. That the system of *licences to be at large*, or *tickets of leave*, authorised by section 9 of the Act, has been too short a time in operation in this country to enable the Committee to form a clear and decided opinion either as to the effects which it has already produced, or as to its probable ultimate working.

 12. That

12. That that system appears to be founded upon a principle wise and just in itself, viz., that of enabling a convict to obtain, by continued good conduct while undergoing his punishment, the remission of a portion of his sentence, upon the express condition, however, that, in case of subsequent misconduct, his liability to punishment shall revive for the residue of the term specified in the original sentence.

13. That there has been much of misapprehension and exaggeration with regard to the conduct of persons released upon tickets of leave, who have been frequently confounded (even by several of the Witnesses on this inquiry), under one common designation of "ticket-of-leave men," with convicts whose sentences had fully and absolutely expired.

14. That there is reason to believe that the conduct of a large proportion of the whole number of persons discharged upon tickets of leave has hitherto been good; and that in other cases persons so discharged have relapsed into crime from the difficulty, arising from their former characters becoming known, of procuring or retaining honest employment in this country, a difficulty, however, which obviously applies to all persons once convicted, whether discharged upon tickets of leave, or absolutely at the expiration of their sentences.

15. That, to render this system of tickets of leave adapted both for the reformation of offenders and the interests of the public, the conditions endorsed upon the tickets of leave ought to be enforced more strictly than appears to have been hitherto the case.

16. That every convict, on his release with a ticket of leave, ought to be reported to the police of the town or district to which he is sent.

17. That full information of any change in the regulations affecting persons under sentence of Transportation or Penal Servitude, should from time to time be furnished by the Home Office to the Judges, Recorders, and Chairmen of Quarter Sessions.

11 *July* 1856.

# PROCEEDINGS OF THE COMMITTEE.

## *Lunæ*, 14° *die Aprilis*, 1856.

MEMBERS PRESENT:

Mr. Wickham.
Sir John Pakington.
Mr. Serjeant O'Brien.
Mr. John Wynne.
Mr. Henley.
Mr. Baines.

Mr. Adderley.
Sir W. Heathcote.
Mr. Beckett Denison.
Mr. Wortley.
Lord Naas.

Mr. Baines called to the Chair.

Committee to meet Mondays and Thursdays.

[Adjourned till Thursday, at Twelve o'clock.

## *Jovis*, 17° *die Aprilis*, 1856.

MEMBERS PRESENT:

Mr. Baines in the Chair.

Mr. Beckett Denison.
Mr. John Wynne.
Mr. Massey.
The Lord Advocate.
Mr. Henley.
Mr. Adderley.
Sir John Pakington.

Lord Naas.
Mr. Serjeant O'Brien.
Mr. Seymour Fitzgerald.
Mr. Deedes.
Mr. Wortley.
Mr. Monckton Milnes.

Mr. *Horatio Waddington* (Under Secretary of State for the Home Department) examined.

[Adjourned till Monday next, at One o'clock.

## *Lunæ*, 21° *die Aprilis*, 1856.

MEMBERS PRESENT:

Mr. Baines in the Chair.

Mr. Wickham.
Mr. Beckett Denison.
Mr. Massey.
Mr. John Wynne.
Mr. Monckton Milnes.

Mr. Adderley.
Sir J. Pakington.
Mr. Deedes.
Mr. Seymour Fitzgerald.
Lord Naas.

Mr. *Waddington* further examined.

Mr. *Thomas Frederick Elliot* examined.

[Adjourned till Monday next, at Twelve o'clock.

*Lunæ*, 28° *die Aprilis*, 1856.

MEMBERS PRESENT:

Mr. BAINES in the Chair.

Mr. Deedes.
Mr. Massey.
Mr. Monckton Milnes.
Mr. Beckett Denison.
Mr. Ker Seymer.
Mr. Adderley.
Lord Naas.
Mr. Wickham.
Mr. John Wynne.

Captain *Donatus O'Brien* examined.

[Adjourned till Thursday next, at One o'clock.

---

*Jovis*, 1° *die Maii*, 1856.

MEMBERS PRESENT:

Mr. BAINES in the Chair.

Sir John Pakington.
Mr. John Wynne.
Mr. Monckton Milnes.
Lord Naas.
Mr. Beckett Denison.
Mr. Ker Seymer.
Mr. Adderley.
Mr. Massey.
Mr. Serjeant O'Brien.
Mr. Deedes.
Mr. Wickham.

Captain *Donatus O'Brien* further examined.

Captain *Irwine S. Whitty* examined.

[Adjourned till Monday next, at Twelve o'clock.

---

*Lunæ*, 5° *die Maii*, 1856.

MEMBERS PRESENT:

Mr. BAINES in the Chair.

Mr. Wickham.
Mr. John Wynne.
Mr. Serjeant O'Brien.
Mr. Monckton Milnes.
Sir John Pakington.
Mr. Adderley.
Mr. Ker Seymer.
Mr. Massey.
Mr. Deedes.
Mr. Beckett Denison.
Mr. Seymour Fitzgerald.

Captain *Irwine S. Whitty* further examined.

Colonel *Jebb* examined.

[Adjourned.

---

*Jovis*, 22° *die Maii*, 1856.

MEMBERS PRESENT:

Mr. BAINES in the Chair.

Mr. Adderley.
Sir John Pakington.
Mr. Beckett Denison.
Mr. Deedes.
Mr. Ker Seymer.
Mr. Monckton Milnes.
Mr. John Wynne.
Mr. Massey.
Lord Naas.
Mr. Wickham.
Mr. Serjeant O'Brien.
Mr. Seymour Fitzgerald.

Colonel *Jebb* further examined.

Captain *Crofton* examined.

[Adjourned till Monday next, at Twelve o'clock.

---

*Lunæ*, 26° *die Maii*, 1856.

MEMBERS PRESENT:

Mr. BAINES in the Chair.

| | |
|---|---|
| Mr. John Wynne. | Mr Wickham. |
| Mr. Deedes. | Mr. Seymour Fitzgerald. |
| Mr. Monckton Milnes. | Mr. Ker Seymer. |
| Mr. Beckett Denison. | Sir John Pakington. |
| Mr. Adderley. | Mr. Massey. |
| Mr. Henley. | |

Captain *Crofton* further examined.

The Earl *Grey* (attending by permission of the House of Lords) examined.

The Committee agreed to report the Minutes of Evidence taken before them up to this day.

[Adjourned to Monday next, at Twelve o'clock.

*Lunæ*, 2° *die Junii*, 1856.

MEMBERS PRESENT:

Mr. BAINES in the Chair.

| | |
|---|---|
| Mr. Beckett Denison. | Lord Naas. |
| Mr. Wickham. | Mr. Monckton Milnes. |
| Mr. Ker Seymer. | Mr. Adderley. |
| Mr. Massey. | Mr. Stuart Wortley. |
| Mr. John Wynne. | Sir John Pakington. |

Mr. *Matthew Davenport Hill* examined.

[Adjourned till Thursday, at Twelve o'clock.

*Jovis*, 6° *die Junii*, 1856.

MEMBERS PRESENT:

Mr. BAINES in the Chair.

| | |
|---|---|
| Mr. Adderley. | Mr. Ker Seymer. |
| Mr. Massey. | Lord Naas. |
| Mr. Beckett Denison. | Mr. Serjeant O'Brien. |
| The Lord Advocate. | Mr. John Wynne. |
| Mr. Deedes. | Sir John Pakington. |
| Mr. Wickham. | |

Mr. *Matthew Davenport Hill* further examined.

Sir *Archibald Alison*, and Mr. *James Smart*, examined.

[Adjourned till Monday next, at Twelve o'clock.

*Lunæ*, 9° *die Junii*, 1856.

MEMBERS PRESENT:

Mr. BAINES in the Chair.

| | |
|---|---|
| Mr. Beckett Denison. | Mr. M. Milnes. |
| Mr. John Wynne. | Sir John Pakington. |
| Mr. Serjeant O'Brien. | Mr. Seymour Fitzgerald. |
| Mr. Wickham. | Mr. Wortley. |
| Mr. Deedes. | Mr. Adderley. |
| Lord Naas. | Mr. Ker Seymer. |

Mr. *William Hart*, Mr. *James McLevy*, and Sir *Matthew Barrington*, examined.

[Adjourned till Thursday, at Twelve o'clock.

*Jovis*, 12° *die Junii*, 1856.

MEMBERS PRESENT:

Mr. BAINES in the Chair.

| | |
|---|---|
| Mr. John Wynne. | Mr. Deedes. |
| Mr. Ker Seymer. | Mr. Serjeant O'Brien. |
| Mr. Beckett Denison. | Mr. Massey. |
| Mr. Adderley. | Mr. Seymour Fitzgerald. |
| Mr. Wickham. | Mr. Monckton Milnes. |
| Sir John Pakington. | |

The Rev. *J. K. Walpole*, Police Serjeant *Mark Loome*, and Mr. *William Thwaites*, examined.

[Adjourned till Monday, at Twelve o'clock.

*Lunæ*, 16° *die Junii*, 1856.

MEMBERS PRESENT:

Mr. BAINES in the Chair.

| | |
|---|---|
| Mr. Wickham. | Mr. Serjeant O'Brien. |
| Mr. John Wynne. | Lord Naas. |
| Mr. Beckett Denison. | Mr. Monckton Milnes. |
| Mr. Massey. | Mr. Adderley. |
| Sir John Pakington. | |

Mr. Justice *Cresswell*, Mr. *Edward Shepherd*, and Police Inspector *James Brennan*, examined.

[Adjourned till Thursday, at Twelve o'clock.

*Jovis*, 19° *die Junii*, 1856.

MEMBERS PRESENT:

Mr. BAINES in the Chair.

| | |
|---|---|
| Mr. Wickham. | Sir John Pakington. |
| Mr. Serjeant O'Brien. | Mr. Ker Seymer. |
| Mr. John Wynne. | Mr. Deedes. |
| Mr. Monckton Milnes. | Lord Naas. |
| Mr. Massey. | Mr. Adderley. |

Mr. Justice *Earle*, Sir *Richard Mayne*, and Mr. *Henry Mayhew*, examined.

The Committee agreed to report the Evidence taken before them up to this day.

[Adjourned till Monday next, at Twelve o'clock.

*Lunæ*, 23° *die Junii*, 1856.

MEMBERS PRESENT:

Mr. BAINES in the Chair.

| | |
|---|---|
| Mr. Serjeant O'Brien. | Mr. Monckton Milnes. |
| Mr. Deedes. | Mr. Wortley. |
| Mr. Ker Seymer. | Lord Naas. |
| Mr. John Wynne. | Mr. Adderley. |
| Mr. Wickham. | Mr. Massey. |
| Sir J. Pakington. | |

Mr. Justice *Ball* and Captain *Maconochie*, R. N., examined.

[Adjourned till Thursday next, at Twelve o'clock.

*Jovis*, 26° *die Junii*, 1856.

MEMBERS PRESENT:

Sir J. Pakington in the Chair.

| | |
|---|---|
| Mr. Monckton Milnes. | Mr. Adderley. |
| Mr. John Wynne. | Mr. Wickham. |
| Mr. Massey. | Mr. Serjeant O'Brien. |
| Lord Naas. | |

Baron *De Katte* and Lord Chief Justice *Campbell* examined.

Mr. *Thomas F. Elliot* further examined.

[Adjourned till Monday next, at Twelve o'clock.

---

*Jovis*, 3° *die Julii*, 1856.

MEMBERS PRESENT:

Mr. Baines in the Chair.

| | |
|---|---|
| Sir J. Pakington. | Mr. Wickham. |
| Mr. Adderley. | Mr. Massey. |
| Mr. John Wynne. | Lord Naas. |
| Mr. Ker Seymer. | Mr. Serjeant O'Brien. |
| Mr. Deedes. | Mr. Beckett Denison. |
| Mr. Monckton Milnes. | |

The Chairman laid before the Committee the Draft Resolutions proposed by him.

[Adjourned till Monday, at Twelve o'clock.

---

*Lunæ*, 7° *die Julii*, 1856.

MEMBERS PRESENT:

Mr. Baines in the Chair.

| | |
|---|---|
| Sir J. Pakington. | Mr. John Wynne. |
| Mr. Adderley. | Lord Naas. |
| Mr. Deedes. | Mr. Massey. |
| Mr. Beckett Denison. | Mr. Monckton Milnes. |
| Mr. Wickham. | Mr. Ker Seymer. |

Draft Resolutions proposed by the Chairman, read 1°, as follows:—

"1. That the punishment of Transportation for crimes of an aggravated nature is in itself one of great value, and possesses important advantages, which can hardly be expected from any substitute. 115. 1685. 2329. 2963. 3303. 3359. 3363. 3621. 3892. 3901. 3961.

"2. That every punishment by Penal Servitude should include, first, a certain fixed and long period of imprisonment and hard labour on public works, to be undergone at all events; secondly, a further period, which should be capable of being abridged by the good conduct of the convict himself. 909. 958. 1081. 1711. 1712. 1821. 1861. 5004. 3314. 3337. 3396.

"3. That, with a view to give full effect to this principle, section 4 of the Act, which prescribes certain graduated periods of penal servitude, ought to be carefully revised. 1688. 1690. 1819.

"4. That the hulk system, which appears by the evidence to be already, in a great measure, relinquished, should be finally abandoned, with as little delay as possible. 926. 7. 3402. 3404.

"5. That the system of licenses to be at large, or tickets-of-leave, authorised by section 9 of the Act, has been too short a time in operation in this country to enable the Committee to form a clear and decided opinion, either as to the effects which it has already produced, or as to its probable ultimate working. 78. 1708.

2988. 3493. 3504. 3980. "6. That that system appears to be founded upon a principle wise and just in itself, viz., that of enabling a convict to obtain, by continued good conduct while undergoing his punishment, the remission of a portion of his sentence, upon the express condition, however, that in case of subsequent misconduct, his liability to punishment shall revive for the residue of the term specified in the original sentence.

1778. 1787. 1789. 2735. 3325. 3979. "7. That there has been much of misapprehension and exaggeration with regard to the conduct of persons released upon tickets of leave, who have been frequently confounded (even by several of the Witnesses on this inquiry), under one common designation of 'ticket-of-leave men,' with convicts whose sentences had fully and absolutely expired.

1055. 1080. 2763. "8. That there is reason to believe that the conduct of a large proportion of the whole number of persons discharged upon tickets of leave has hitherto been good; and that in other cases persons so discharged have relapsed into crime from the difficulty, arising from their former characters becoming known, of procuring or retaining honest employment in this country; a difficulty, however, which obviously applies to all persons once convicted, whether discharged upon tickets of leave, or absolutely at the expiration of their sentences.

754. 1144. 1148. 1914. 1921. 1940. 2851. 2980 3586. 110. 761. 1148. 1151. 1921. 3193. "9. That the establishment, under carefully-framed regulations, of institutions resembling the *Sociétés de Patronage*, known in some continental countries, for the aid of convicts discharged in a state of absolute destitution is an object which your Committee deem to be of great importance, especially with regard to female convicts, a class as to the disposal of whom the partial discontinuance of transportation has created peculiar difficulties.

Draft Resolutions proposed by Sir *John Pakington*, read 1°, as follows:—

"1. That the punishment of transportation is more effectual and deterring, better adapted for the ultimate reformation of convicts, and more beneficial to this country, than any other secondary punishment for serious crimes which has yet been tried.

"2. That the Committee therefore recommend the continuation of the sentence of transportation, so far as Her Majesty's dominions may afford safe and proper facilities for that purpose.

"3. That if such facilities can be obtained, sentences of 10 years' transportation should be revived.

"4. That to whatever extent the punishment of transportation may be retained, it should be so regulated as to be in theory and practice the severest punishment known to the law, except death, and the nature of the arrangements for carrying it into effect should be clear, intelligible, and certain.

"5. That all sentences of more than 10 years' duration should be, if possible, sentences of transportation, and not of penal servitude.

"6. That an objectionable and unnecessary element of uncertainty is introduced into our penal system at the present time by the practice of classing Bermuda and Gibraltar with the home establishments for penal servitude.

"7. That Gibraltar and Bermuda ought to be regarded, with some modification of system, as places for carrying out the sentence of transportation.

"8. That, in the opinion of this Committee, the system of secondary punishment in this country, enacted by 16 & 17 Vict. c. 99, and now known as penal servitude, requires extensive and careful revision.

"9. That, with a view to give full effect to this principle, the sentences of penal servitude prescribed by the Act should be changed and lengthened, so as to be identical with the terms of transportation for which they are respectively substituted.

"10. That in this case minimum periods of penal servitude should be enacted, which in all cases, and with unfailing certainty, should be passed by the convicts on the public works to which they are sent, and the balance of time between that minimum period and the whole term of the sentence should be passed either on the public works or at large under a good-conduct license, according to the character and behaviour of the man.

"11. That the sentences of penal servitude now in force might be adopted, with some few changes, as the fixed periods indicated in Resolution 2, of Chairman.

"12. That the term 'penal servitude' is not well adapted to convey the meaning intended, and that the punishment now known by that name should be called 'imprisonment on public works.'

"13. No. 5 of Chairman's Resolutions.

"14. That the system of licenses, or tickets of leave, authorised by section 9 of the Act, appears, so far as an opinion can be formed from the present short experience, to have been a successful and satisfactory experiment, and to have been regarded by the public with feelings of unnecessary alarm.

"15. No. 7 of Chairman's Resolutions.

"16. That

" 16. That it appears, from the evidence before the Committee, that bad effects upon the discipline of convicts on the Public Works have already been caused by the regulations under which it has been made known that no tickets of leave, or other remission of sentence, would in any case be granted to men sentenced to penal servitude.

" 17. That the opinion above stated is supported by the fact, that of more than 5,000 convicts discharged with tickets of leave since the Act passed in 1853, not more than eight per cent. are known to have incurred the forfeiture of their licenses.

" 18. That the misapprehension and exaggeration which have prevailed with regard to the conduct of persons released with tickets of leave have arisen in part from those persons having been frequently confused, &c.—*See* No. 8 of Chairman's Resolutions.

" 19. No. 9 of Chairman's Resolutions.

" 20. That it is desirable that the ticket-of-leave system, or other system of remission, should be continued and extended as part of our system of home punishments, and applied as a rule to all cases of imprisonment on public works.

" 21. That, to render this system of good-conduct licenses adapted both for the reformation of offenders and the interests of the public, additional precautions and securities in the mode of carrying it out are required.

" 22. That every convict on his release with a ticket of leave ought to be reported to the police of the town or district to which he is sent, and required to present himself to the police for inspection, at certain intervals, up to the time of his complete emancipation.

" 23. That the police should everywhere carry out the duty of inspection of licensed convicts under clear, uniform, and strict instructions, to the effect that while the conduct of the man is watched carefully, and reported upon accurately, perfect secresy is to be observed towards all other persons with respect to his character and position.

Question, " That the Draft Resolution, No. 1, proposed by the Chairman, be now read a second time," put and agreed to.

Resolution read 2°.

Amendment proposed (Mr. *Adderley*) to leave out all the words, after the word " That," for the purpose of adding the words following:

" The last changes of the system of transportation since 1847 have established the principle that the strictly penal part of the sentence should be inflicted at home, or under Government superintendence.

" Removal to the colonies, which is all that transportation properly implies, has since been used and recommended only as a subsequent means for enabling convicts to regain character and employment in a new country. The possible extension of the 'License' system to Her Majesty's distant dominions, would practically adopt, for that special purpose, all that can be retained of the use of transportation.

" The limited and uncertain means of any transportation leave the Judges in great uncertainty, in passing such a sentence, as to the possibility of any process, properly so called, taking effect.

" It is therefore expedient that transportation should cease to be used as a penal sentence, and that all the secondary class of criminals should be punished with various terms of penal servitude; Her Majesty having the power of granting to such as she may think fit, licenses to be at large in any of Her dominions which may offer means for the disposal of them."

Question, " That the words, 'the punishment,' proposed to be left out, stand part of the proposed Resolution," put. The Committee divided:

| Ayes, 9. | No, 1. |
|---|---|
| Mr. Wickham. | Mr. Adderley. |
| Mr. John Wynne. | |
| Lord Naas. | |
| Mr. Monckton Milnes. | |
| Mr. Massey. | |
| Sir J. Pakington. | |
| Mr. Ker Seymer. | |
| Mr. Deedes. | |
| Mr. Beckett Denison. | |

Another Amendment proposed (Sir *John Pakington*), To leave out all the words after the word " punishment," for the purpose of adding the words, " of transportation, is more effectual and deterring, better adapted for the ultimate reformation of convicts, and more beneficial to this country than any other secondary punishment for serious crimes which has yet been tried." Question, " That the words proposed to be left out stand part of the proposed Resolution," put. The Committee divided:

| Ayes, 4. | Noes, 6. |
|---|---|
| Mr. M. Milnes. | Mr. Wickham. |
| Mr. Massey. | Mr. John Wynne. |
| Mr. Deedes. | Lord Naas. |
| Mr. B. Denison. | Sir J. Pakington. |
| | Mr. Adderley. |
| | Mr. Ker Seymer. |

Question proposed, "That the words 'of transportation is more effectual and deterring, better adapted for the ultimate reformation of convicts, and more beneficial to this country than any other secondary punishment for serious crimes which has yet been tried," be there added:—Amendment proposed to the proposed Amendment (Mr. *Beckett Denison*), To leave out all the words after the word "transportation," for the purpose of adding the words following, "possesses advantages to the public as well as to the convict and the criminal population of the kingdom, which cannot be compensated by any known substitute; and therefore actual transportation ought to be resumed as soon as arrangements can be made with the authorities in the several colonies for the gradual reception of convicts." Question, "That the words proposed to be left out stand part of the proposed Amendment," put.—The Committee divided:

| Ayes, 8. | Noes, 2. |
|---|---|
| Mr. Wickham. | Mr. Adderley. |
| Mr. John Wynne. | Mr. B. Denison. |
| Lord Naas. | |
| Mr. M. Milnes. | |
| Mr. Massey. | |
| Sir J. Pakington. | |
| Mr. Ker Seymer. | |
| Mr. Deedes. | |

Proposed words added.

Resolution, as amended, agreed to.

*Resolved*, 1. "That the punishment of transportation is more effectual and deterring, better adapted for the ultimate reformation of convicts, and more beneficial to this country than any other secondary punishment for serious crimes which has yet been tried."

Subsequent Resolutions proposed by *Chairman* postponed.

The following Resolution was proposed by Sir *J. Pakington* to follow Resolution, No. 1:—"2. That the Committee therefore recommend the continuation of the sentence of transportation, so far as Her Majesty's dominions may afford safe and proper facilities for that purpose."

Resolution read 2°.

Question, "That this Resolution be agreed to," put.—The Committee divided:

| Ayes, 7. | Noes, 3 |
|---|---|
| Mr. John Wynne. | Mr. Wickham. |
| Lord Naas. | Mr. Adderley. |
| Mr. M. Milnes. | Mr. Ker Seymer. |
| Mr. Massey. | |
| Sir J. Pakington. | |
| Mr. Deedes. | |
| Mr. B. Denison. | |

The following Resolution was proposed by Sir *J. Pakington*, to follow Resolution No. 2: "3. That if such facilities can be obtained, sentences of 10 years' transportation should be revived."

Resolution read 2°.

Question, "That this Resolution be agreed to," put.—The Committee divided

| Ayes, 8. | Noes, 2. |
|---|---|
| Mr. Wickham. | Mr. Adderley. |
| Mr. John Wynne. | Mr. Ker Seymer. |
| Lord Naas. | |
| Mr. M. Milnes. | |
| Mr. Massey. | |
| Sir J. Pakington. | |
| Mr. Deedes. | |
| Mr. B. Denison. | |

The

The following Resolution was proposed by Sir *J. Pakington*, to follow Resolution No 3:—"(4.) That to whatever extent the punishment of transportation may be retained, it should be so regulated as to be in theory and practice the severest punishment known to the law, except death, and the nature of the arrangements for carrying it into effect should be clear, intelligible, and certain."

Resolution read 2°.

Question, "That this Resolution be agreed to," put and negatived.

he following Resolution was proposed by Sir *J. Pakington*: "(5.) That all sentences of more than 10 years' duration should be, if possible, sentences of transportation, and not of penal servitude."

Resolution read 2°.

Question, "That this Resolution be agreed to," put and negatived.

The following Resolution was proposed (Sir *J. Pakington*): "(6.) That an objectionable and unnecessary element of uncertainty is introduced into our penal system at the present time, by the practice of classing Bermuda and Gibraltar with the home establishments for penal servitude."

Resolution read 2°.

Question, "That this Resolution be agreed to," put. The Committee divided:

| Ayes, 3. | Noes, 7. |
|---|---|
| Mr. John Wynne. | Mr. Wickham. |
| Lord Naas. | Mr. M. Milnes. |
| Sir J. Pakington. | Mr. Massey. |
| | Mr. Adderley. |
| | Mr. Ker Seymer. |
| | Mr. Deedes. |
| | Mr. B. Denison. |

The following Resolution was proposed by Sir *J. Pakington*: "4. That convict prisons beyond the seas ought to be regarded as places for carrying out the sentence of transportation."

Resolution read 2°.

Question, "That this Resolution be agreed to," put. The Committee divided:

| Ayes, 6. | Noes, 4. |
|---|---|
| Mr. John Wynne. | Mr. Wickham. |
| Lord Naas. | Mr. Massey. |
| Mr. M. Milnes. | Mr. Ker Seymer. |
| Sir J. Pakington. | Mr. B. Denison. |
| Mr. Adderley. | |
| Mr. Deedes. | |

The Committee proceeded with the Resolutions proposed by the Chairman.

Resolution (No. 2, of Chairman) read 2°, as follows:—"That every punishment by *Penal Servitude* should include, first, a certain fixed and long period of imprisonment and hard labour on public works, to be undergone at all events; secondly, a further period, which should be capable of being abridged by the good conduct of the convict himself."

Resolution amended by striking out the words "and long."

Resolution as amended agreed to.

*Resolved*, 5. "That every punishment by *Penal Servitude* should include, first, a certain fixed period of imprisonment and hard labour on public works, to be undergone at all events; secondly, a further period, which should be capable of being abridged by the good conduct of the convict himself."

The following Resolution was proposed by Sir *John Pakington*: (9.) 6. "That with a view to give full effect to this principle, the sentences of penal servitude prescribed by the Act should be changed and lengthened so as to be identical with the terms of transportation for which they are respectively substituted."

Resolution read 2°, and agreed to.

The following Resolution was proposed by *Sir J. Pakington*: (11.) 7. "That the sentences of penal servitude now in force, might be adopted, with some few changes, as the fixed periods indicated in Resolution 5.

Resolution read 2°, and agreed to.

Resolution (3) of Chairman postponed.

Resolution (4) of Chairman, read 2°, as follows: 8. "That the hulk system, which appears by the evidence to be already in a great measure relinquished, should be finally abandoned with as little delay as possible."

Resolution read 2°, and agreed to.

The following Resolution was proposed by Sir *J. Pakington*: (12.) "That the term 'penal' servitude" is not well adapted to convey the meaning intended, and that the punishment now known by that name should be called 'imprisonment on public works.'"

Question, "That this Resolution be agreed to," put and negatived.

---

*Jovis, 10° die Julii, 1856.*

MEMBERS PRESENT:

Mr. BAINES in the Chair.

| | |
|---|---|
| Mr. Adderley. | Mr. Monckton Milnes. |
| Mr. Beckett Denison. | Sir John Pakington. |
| Lord Naas. | Mr. Seymour Fitzgerald. |
| Mr. Massey. | Mr. Ker Seymer. |
| Mr. Wickham. | |

The following resolution was proposed by Lord Naas: "9. That the scale of secondary punishment would be more complete if a shorter period of penal servitude than any now in force were enacted, as an intermediate sentence between the present term of ordinary imprisonment now usually inflicted, and the former sentence of seven years' transportation, or its equivalent."

Resolution read 2°, and agreed to.

The Committee proceeded with the resolutions proposed by the Chairman.

Resolution (5) of Chairman read 2° as follows:—"That the system of licenses to be at large, or tickets of leave, authorised by section 9 of the Act, has been too short a time in operation in this country to enable the Committee to form a clear and decided opinion, either as to the effects which it has already produced or as to its probable ultimate working."—Amendment proposed (Lord Naas) to leave out all the words after the word "large," in order to add the words following:

"On tickets of leave, authorised by the 9th section of the Act, has not worked satisfactorily.

"That there has been a steady increase in the per-centage of licenses revoked.

"That in the majority of cases, the holders of licenses, after receiving their gratuity, endeavour to conceal the fact of their being ticket-of-leave men, and destroy their licenses.

"That the system is unequal in its operation, as it is not applied to persons under sentence of penal servitude.

"That the conditions attached to the ticket of leave have not been enforced, and that revocations of license have never taken place except on re-conviction.

"That if the punishment of penal servitude and transportation is in all cases to be inflicted for a certain minimum period, with a further portion of time capable of being abridged by good conduct, the convict should, on leaving prison, receive an absolute discharge."

Question, "That the words, 'or tickets of leave, authorised by section 9 of the Act,' proposed to be left out, stand part of the proposed resolution," put. The Committee divided:

| Ayes, 6. | Noes, 3. |
|---|---|
| Mr. Wickham. | Mr. S. Fitzgerald. |
| Mr. M. Milnes. | Lord Naas. |
| Mr. Massey. | Mr. Adderley. |
| Sir J. Pakington. | |
| Mr. Ker Seymer. | |
| Mr. Denison. | |

Another amendment proposed (Sir *J. Pakington*) to leave out all the words after the word "Act" for the purpose of adding the words following:—"Appears, so far as an opinion can be formed from the present short experience, to have been a successful and satisfactory experiment, and to have been regarded by the public with feelings of unnecessary alarm":—Question, "That the words proposed to be left out stand part of the proposed resolution," put. The Committee divided:

| Ayes, 7. | Noes, 2. |
|---|---|
| Mr. Wickham. | Mr. M. Milnes. |
| Mr. S. Fitzgerald. | Sir J. Pakington. |
| Lord Naas. | |
| Mr. Massey. | |
| Mr. Adderley. | |
| Mr. Ker Seymer. | |
| Mr. Beckett Denison. | |

Resolution agreed to.

*Resolved,*

*Resolved*,—"10. That the system of licences to be at large, or tickets of leave, authorised by section 9 of the Act, has been too short a time in operation in this country to enable the Committee to form a clear and decided opinion, either as to the effects which it has already produced, or as to its probable ultimate working."

Resolution (6) of Chairman, read 2° as follows:—"(6.) 11. That that system appears to be founded upon a principle wise and just in itself, viz., that of enabling a convict to obtain, by continued good conduct while undergoing his punishment, the remission of a portion of his sentence, upon the express condition, however, that in case of subsequent misconduct, his liability to punishment shall revive for the residue of the term specified in the original sentence."

Resolution agreed to.

The following Resolution (16) was proposed by Sir *J. Pakington*:—"(16.) 12. That it appears, from the evidence before the Committee, that bad effects upon the discipline of convicts on the public works have already been caused by the regulations under which it has been made known that no tickets of leave or other remission of sentence would in any case be granted to men sentenced to penal servitude."

Resolution read 2°, and agreed to.

Resolution (7) of Chairman, read 2° as follows:—"(7.) 13. That there has been much of misapprehension and exaggeration with regard to the conduct of persons released upon tickets of leave, who have frequently confounded (even by several of the witnesses on this inquiry), under one common designation of "ticket-of-leave men," with convicts whose sentences had fully and absolutely expired."

Resolution agreed to.

Resolution (8) of Chairman read 2° as follows:—"(8.) That there is reason to believe that the conduct of a large proportion of the whole number of persons discharged upon tickets of leave has hitherto been good; and that in other cases persons so discharged have relapsed into crime from the difficulty, arising from their former characters becoming known, of procuring or retaining honest employment in this country; a difficulty, however, which obviously applies to all persons once convicted, whether discharged upon tickets of leave, or absolutely at the expiration of their sentences."—Amendment proposed (Lord *Naas*) to leave out from the beginning of the Resolution to the first word "and":—Question, "That the words proposed to be left out stand part of the proposed resolution," put. The Committee divided:

| Ayes, 7. | Noes, 2. |
|---|---|
| Mr. Wickham. | Mr. S. Fitzgerald. |
| Mr. M. Milnes. | Lord Naas. |
| Mr. Massey. | |
| Sir J. Pakington. | |
| Mr. Adderley. | |
| Mr. Ker Seymer. | |
| Mr. Denison. | |

Resolution agreed to.

*Resolved*,—"14. That there is reason to believe that the conduct of a large proportion of the whole number of persons discharged upon tickets of leave has hitherto been good; and that in other cases persons so discharged have relapsed into crime from the difficulty, arising from their former characters being known, of procuring or retaining honest employment in this country; a difficulty, however, which obviously applies to all persons once convicted, whether discharged upon tickets of leave, or absolutely at the expiration of their sentences."

The following Resolution was proposed by Sir *J. Pakington*: "(20.) That it is desirable that the ticket-of-leave system, or other system of remission, should be continued and extended as part of our system of home punishments, and applied as a rule to all cases of imprisonment on public works." Resolution read 2°. Question, "That this Resolution be agreed to," put. The Committee divided:

| Ayes, 2. | Noes, 7. |
|---|---|
| Mr. M. Milnes. | Mr. Wickham. |
| Sir J. Pakington. | Mr. S. Fitzgerald. |
| | Lord Naas. |
| | Mr. Massey. |
| | Mr. Adderley. |
| | Mr. Ker Seymer. |
| | Mr. Denison. |

The following Resolution was proposed by Sir *J. Pakington*: "(21.) 15. That to render this system of ticket of leave adapted both for the reformation of offenders and the interest of the public, the conditions endorsed upon the tickets of leave ought to be enforced more strictly than appears to have been hitherto the case." Resolution read 2°. Question, "That this Resolution be agreed to," put. The Committee divided:

| Ayes, 7. | Noes, 2. |
|---|---|
| Mr. Wickham. | Lord Naas. |
| Mr. S. Fitzgerald. | Mr. Adderley. |
| Mr. M. Milnes. | |
| Mr. Massey. | |
| Sir J. Pakington. | |
| Mr. Ker Seymer. | |
| Mr. Denison. | |

The following Resolution was proposed by Sir *J. Pakington*: "(22.) That every convict, on his release with a ticket of leave, ought to be reported to the police of the town or district to which he sent, and is required to present himself to the police for inspection, at certain intervals, up to the time of his complete emancipation." Resolution read 2°:—Amendment proposed (Mr. *Beckett Denison*) to leave out all the words after the word "sent." Question, "That the words proposed to be left out stand part of the proposed Resolution," put. The Committee divided:

| Ayes, 3. | Noes, 6. |
|---|---|
| Mr. Wickham. | Mr. S. Fitzgerald. |
| Mr. M. Milnes. | Lord Naas. |
| Sir J. Pakington. | Mr. Massey. |
| | Mr. Adderley. |
| | Mr. Ker Seymer. |
| | Mr. Denison. |

Words struck out.

Question, "That this Resolution, as amended, be agreed to," put. The Committee divided:

| Ayes. 7. | Noes, 2. |
|---|---|
| Mr. Wickham. | Lord Naas. |
| Mr. S. Fitzgerald. | Mr. Adderley. |
| Mr. M. Milnes. | |
| M. Massey. | |
| Sir J. Pakington. | |
| Mr. Ker Seymer. | |
| Mr. Denison. | |

Resolved, "16. That every convict, on his release with a ticket of leave, ought to be reported to the police of the town or district to which he is sent."

The following Resolution was proposed by Sir *J. Pakington*: "(23.) That the police should everywhere carry out the duty of inspection of licensed convicts, under clear, uniform, and strict instructions, to the effect that while the conduct of the man is watched carefully, and reported upon accurately, perfect secresy is to be observed towards all other persons, with respect to his character and position." Resolution read 2°. Question, "That this Resolution be agreed to," put and negatived.

The following Resolution was proposed by Mr. *M. Milnes*: "That it is advisable to establish 'refuges,' where convicts discharged with tickets of leave may be received, supported, and employed, in industrial and agricultural operations, during the unexpired portion of their sentence; and the Committee desire to draw the attention of the House to the valuable efforts already made in Ireland in that direction, under the superintendence of Captain Crofton." Resolution read 2°:—Amendment proposed (Mr. *Massey*) to leave out the word, "establish," in order to insert the words, "encourage the establishment of." Question, "That the word 'establish' stand part of the proposed Resolution," put. The Committee divided:

| Ayes, 2. | Noes, 7. |
|---|---|
| Mr. M. Milnes. | Mr. Wickham. |
| Mr. Adderley. | Mr. S. Fitzgerald. |
| | Lord Naas. |
| | Mr. Massey. |
| | Sir J. Pakington. |
| | Mr. Ker Seymer. |
| | Mr. Denison. |

Question, "That the words 'encourage the establishment of' be there inserted," put, and agreed to.

Question, "That this Resolution as amended be agreed to," put. The Committee divided:

| Ayes, 4. | Noes, 5. |
|---|---|
| Mr. M. Milnes. | Mr. Wickham. |
| Sir J. Pakington. | Mr. S. Fitzgerald. |
| Mr. Adderley. | Lord Naas. |
| Mr. Ker Seymer. | Mr. Massey. |
| | Mr. Beckett Denison. |

The following Resolution was proposed by Mr. *M. Milnes*:—"That 'Societies of Patronage,' for the purpose of finding employment for discharged prisoners have been attended in other countries with a success that can hardly be looked for where labour is redundant, but that their charitable efforts might still effect much good in directing, sustaining, and encouraging the discharged or liberated convict, especially in the case of females, who have suffered most severely from the partial discontinuance of transportation." Resolution read 2°. Question, "That this Resolution be agreed to" put. The Committee divided:

| Aye, 1. | Noes, 7. |
|---|---|
| Mr. M. Milnes. | Mr. Wickham. |
| | Mr. S. Fitzgerald. |
| | Lord Naas. |
| | Mr. Massey. |
| | Mr. Adderley. |
| | Mr. Ker Seymer. |
| | Mr. Denison. |

The following Resolution was proposed by Mr. *M. Milnes*:—"That in cases where neither 'Refuges' nor 'Patronage Societies' exist, a portion of the prison itself might be beneficially detached, where the discipline should be entirely of a reformatory character, and which should be assigned to the use of persons holding tickets of leave, who cannot find employment elsewhere." Resolution read 2°. Question, "That this Resolution be agreed to," put. The Committee divided:

| Ayes, 2. | Noes, 7 |
|---|---|
| Mr. M. Milnes. | Mr. Wickham. |
| Mr. Denison. | Mr. S. Fitzgerald. |
| | Mr. Massey. |
| | Sir J. Pakington. |
| | Mr. Adderley. |
| | Mr. Ker Seymer. |
| | Lord Naas. |

The following Resolution was proposed by Mr. *Ker Seymer*:—"17. That full information of any change in the regulations affecting persons under sentence of transportation or penal servitude, should from time to time be furnished by the Home Office to the Judges, Recorders, and Chairmen of Quarter Sessions." Resolution read 2°. Question "That this Resolution be agreed to," put and agreed to.

*Ordered*, to report the Resolutions agreed to and the Minutes of Evidence to The House.

## EXPENSES OF WITNESSES.

| NAME of WITNESS. | Profession or Condition. | From whence Summoned. | Number of Days absent from Home under Orders of Committee. | Expenses of Journey to London and back. | Allowance during Absence from Home. | TOTAL Expenses allowed to Witness. |
|---|---|---|---|---|---|---|
| | | | | £. s. d. | £. s. d. | £. s. d. |
| Sir Archibald Alison | | | 2 | 10 10 – | 2 2 – | 12 12 – |
| Mr. James Smart | | | 4 | 10 – – | 4 4 – | 14 4 – |
| Mr. John Smith | | | 4 | 8 – – | 4 4 – | 12 4 – |
| Mr. John Stirling | | | 4 | 10 – – | 4 4 – | 14 4 – |
| Mr. John Fallower | | | 5 | 8 – – | 5 5 – | 13 5 – |
| Mr. William Hart | | | 8 | 10 – – | 8 8 – | 18 8 – |
| Mr. James McLevy | | | 8 | 8 – – | 8 8 – | 16 8 – |
| Rev. J. K. Walpole | | | 3 | 2 – – | 3 3 – | 5 3 – |
| Mr. William Thwaites | | | 3 | 2 – – | 3 3 – | 5 3 – |
| Mr. Edward Shepherd | | | 4 | 3 10 – | 4 4 – | 7 14 – |
| | | | | | £. | 119 5 – |

# LIST OF WITNESSES.

*Lunæ*, 23° *die Junii*, 1856.

The Right Honourable Nicholas Ball - - - - - - p. 1
Captain Alexander Maconochie, R. N. - - - - - - p. 8

*Jovis*, 26° *die Junii*, 1856.

Baron De Katte - - - - - - - - - - p. 20
The Right Honourable Lord Campbell - - - - - p. 26
Thomas Frederick Elliot, Esq. - - - - - - - p. 32

# MINUTES OF EVIDENCE.

*Lunæ*, 23° *die Junii*, 1856.

MEMBERS PRESENT.

| | |
|---|---|
| Mr. Baines. | Mr. Wickham. |
| Sir John Pakington. | Mr. John Wynne. |
| Lord Naas. | Mr. Massey. |
| Mr. Wortley. | Mr. Deedes. |
| Mr. Adderley. | Mr. Monckton Milnes. |
| Mr. Serjeant O'Brien. | Mr. Ker Seymer. |

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

The Right Honourable *Nicholas Ball*, one of the Judges of Her Majesty's Court of Common Pleas in Ireland; called in, and Examined.

Right Hon. *Nicholas Ball.*

23 June 1856.

3619. *Chairman.*] I BELIEVE your Lordship is aware that this Committee has been appointed to inquire into the operation of the Act of the 16 & 17 Vict. c. 99, and into the provisions of that Act?—So I understand.

3620. The Committee are anxious to have the benefit of any information or suggestions with which your Lordship can favour them upon the subject-matter of this reference. Will you permit me to ask, in the first instance, what is the opinion which your Lordship has formed of the value of transportation as a punishment?—Does your question apply to transportation with reference to penal servitude?

3621. To transportation as it stood before the passing of this Act?—With respect to that, I have no doubt that so far as the condition of Ireland is concerned, transportation is a punishment which we could hardly do without. The effect of it with reference to the criminal himself, a judge can have very little opportunity of knowing personally except by what appears when he passes a sentence of transportation in a court of justice; as to the working of the system and its effect upon the criminal, the persons whose business it is to look after the criminals would be much more competent to speak than a judge, who can know very little of the matter except by report. But, with respect to the effect upon the criminal of the passing of a sentence of transportation, undoubtedly it is very striking. Of course, it varies. In the case of some criminals who have a position, I may say, in the society in which they live, who have families and friends about them, a sentence of transportation, I might almost say, is often awful; the effect upon the criminal himself, as well as upon the bystanders, among whom are, generally speaking, his friends or his family, is exceedingly striking, and one cannot fail to see that it must have an exceedingly deterring effect in reference to the commission of crime, when it produces such a sensation as when pronounced in an Irish court of justice it constantly does. That is what I should say as to transportation, speaking generally and without reference to penal servitude. As to its reformatory effect, that is a subject on which, in like manner, I, as a judge, can know nothing but by report; but I have understood that as transportation has been carried out of late, it has greatly improved upon the old system, and that it has been found to have had, in many instances, a very salutary reformatory

Right Hon. *Nicholas Ball.*

23 June 1856.

matory effect. I can speak with more confidence with reference to its deterring effect, which I think I cannot hesitate to say is such, that without it we should get on very badly indeed in Ireland, at certain periods particularly. I speak not of the present moment, when the amount of crime and its character are so much reduced that though I would not say that we could do without transportation, there is certainly much less demand for it than in other states of society which we have passed through.

3622. You have referred to the advantage which has attended the application of the punishment of transportation in past times in Ireland; has your Lordship seen that advantage exemplified, as you conceive, to a great extent?—As I have already said, I am hardly competent to give anything like a satisfactory opinion upon the subject.

3623. With regard to the repression of crime?—Even that does not come in our way, as judges, so as to enable us to ascertain it; it can rarely happen, I think, that we can know anything upon the subject which is not accessible to all the public.

3624. If I understand it, both with regard to its effects as exhibited upon the criminal himself when the sentence was passed, and as witnessed in the court generally, your Lordship is of opinion that transportation had a peculiarly deterring character?—Most certainly; that I can speak of with confidence; but as to what its effect may be in a reformatory way upon criminals I have no opportunities of knowing, except, as I have said, by common rumour.

3625. Your Lordship is aware that by this Act of Parliament the power of passing a sentence of transportation is taken away absolutely in certain cases in which it used to exist; and in others, for the higher crimes the power of passing a sentence of transportation is now alternative with the power of passing a sentence of penal servitude?—Yes.

3626. I presume I may infer from the answers which your Lordship has already given that you would think it undesirable to part with so much of the power of passing a sentence of transportation as is yet left by law?—Certainly.

3627. It is desirable to have it reserved?—Certainly.

3628. With regard to the provisions of this particular Act of Parliament, the Committee will be happy to receive any suggestion which occurs to your Lordship's mind which may be useful for the improvement of the Act, if any such suggestion has presented itself to your mind; may I ask whether you can suggest any improvement in the Act?—There are one or two matters that have occurred to me, which, as far as I have had any insight into the working of this new Act, I think are worth noticing; it occurred to me before I was aware within the last few days of a regulation which has been made with regard to the mitigation of the sentence of penal servitude, that it was a bad system to vest in the Government the power of remitting *ad libitum* the sentence of penal servitude. When I say *ad libitum*, I mean according as appearances of a reformed habit of life should present themselves on the part of the criminal. But I have just lately understood, and I was not at all aware of it before, that both in Ireland and in England the practice is, and that there is a regulation to that effect, that sentences of penal servitude are not to be remitted at all, and that the licensing system is to be confined to cases of transportation. I understand that in the evidence of Captain Crofton, a witness from Ireland, it was stated, to the Committee, that the regulation is such as I have mentioned, namely, that no ticket of leave is to be granted in a case of penal servitude.

3629. The evidence which we have upon that point is, that, except under very special circumstances, it is not intended to give a ticket of leave in any case of penal servitude?—Either four years' penal servitude, or six or eight?

3630. That is the evidence at present before the Committee?—Taking that to be so, and that these special cases are merely exceptional, and taking it that the general system is to be, not to give a licence or ticket of leave during any portion of the period for which the criminal is sentenced, perhaps there is great advantage in that, considering the certainty which it holds out, both to the criminal, and I may say to the public and to the judge, that that sentence which a judge in the discharge of his duty considers the just and proper period of penal servitude to which the convict ought to be subjected, shall be carried out to its full extent. Now I think there is a great advantage in that, and I was very glad to find that there was some such regulation as that which I have just mentioned. The advantage of it, I think, perhaps more in Ireland even than in this

this country, is quite apparent. The certainty of punishment being carried out, I apprehend, has been often found to have operated more as a deterrent than perhaps any other incident of punishment. A person disposed to commit crime has many chances of escape: if he thinks at all upon the subject, he knows, first of all, that he may not be detected; if detected, he may not be prosecuted, for want of sufficient evidence; and even if prosecuted, he may escape conviction; on the other hand, in case he shall be convicted and sentenced, if the sentence which is passed upon him is to be carried out beyond doubt, and with perfect certainty, that to a certain degree counteracts what might otherwise operate, if not as an encouragement, at least as a non-deterrent from the commission of crime. What I mean is, that considering the chances which a person disposed to act criminally knows that he has in his favour, I think it would be a great evil if, in addition to them, the sentence of punishment which is passed upon him were as to its duratson uncertain, that is to say, if it were liable to be remitted under circumstances such as we are told exist at present in the case of transportation, namely, that where the criminal affords reason to believe that he has reformed his habits and disposition, there may be a remission of the sentence. That uncertainty, added to the other chances in the criminal's favour, it appears to me, would derogate greatly from the effect of punishment as a deterrent from the commission of crime; whereas, the regulation as to not giving licences or tickets of leave during the period of the sentence having the effect of satisfying the person criminally disposed, that the punishment must be gone through to its full extent, may be reasonably calculated to have an opposite effect. It has been observed, however (as I believe with great reason), that if you hold out to the convict no hope of a remission of his sentence, or of improving his condition during the whole period for which he is sentenced, you make it less likely that he will turn seriously to reform; his case is desperate in his own apprehension, he gives way to the degrading influence of his condition, and is not likely to turn towards an improved habit of life or conduct. On the other hand, if you can afford him hope of a remission of a portion of the sentence, in case his conduct shall be found to warrant it, the contrary may be reasonably expected; namely, that some at least of the criminals, if not a considerable number, may be disposed to turn to a better habit of thinking and acting, and to improve their moral nature, if it be susceptible of improvement. In reference to this view of the subject, it appears to me that, if the latter portion of the duration of the sentence were to depend upon the good conduct and apparently reformed habits of the criminal during the antecedent period, perhaps you would succeed in combining together in the one punishment the two desiderata of certainty on the one hand, and a tendency to reform criminal habits on the other, better than any other system which has been proposed. Some view of this sort has struck me; taking the lowest period, of four years' penal servitude (perhaps as low an amount as ought to be awarded; or it would answer any good purpose that the judge should be empowered to award a shorter period; and assuming four years as the minimum, if a fifth year were added to the sentence as the period for which the criminal might, if he had conducted himself well in the antecedent four years, entitle himself to a remission of the remainder of the punishment, perhaps that would create a system which would be much more effective than the present one appears likely to be in the particulars in which punishment is deemed to be useful, more especially as a deterrent from the commission of crime, by its certainty, and likewise as reformatory, in leading the criminal to endeavour to improve his habits, and thus fit himself ultimately, upon his discharge, to become a safe member of society. I do not at present recollect that there is any other matter connected with that immediate question which has struck me as worth mentioning.

3631. I believe the suggestion which your Lordship has now made would involve the necessity for new legislation?—I apprehend so.

3632. As your Lordship is aware, by the fourth section of this Act, instead of the period of seven years' transportation, the sentence may be penal servitude for the term of four years absolutely, without any discretion in the judge?—Yes, so I am aware.

3633. I understand your Lordship to be of opinion, that if you were to alter that, and to give the judge a power of passing a sentence of penal servitude for five years, with an understanding that it was to be carried out at all events for four, and that the question of the remaining year should depend entirely upon the

Right Hon. *Nicholas Ball.*

23 June 1856.

the man's own good conduct, in that way you might combine both the advantages which your Lordship has been pointing out?—So it has struck me.

3634. And that that would be the most satisfactory footing upon which to have the matter put?—So it strikes me; but of course it would involve the necessity of legislation.

3635. Does your Lordship see any good reason why there should be, in the case of transportation, a rule that there may be a remission in case of good conduct, and in penal servitude there should be no such rule?—I am not aware of the reason for making the distinction. I find the distinction made, but I have not understood upon what ground. The objection to it in cases of transportation is the same in my mind as that which I have suggested to a remission being permitted in cases of penal servitude, namely, that it induces such a degree of uncertainty as operates to a certain extent to diminish the good effect of punishment. As far as I know anything of the matter, that applies to transportation just as well as to penal servitude.

3636. With regard to the scale which your Lordship remembers is set forth in the 4th section of the Act, is there any suggestion which occurs to you as likely to be useful to us?—With respect to the intermediate gradations between four years and 10, I should say that I do not see the advantage of those intermediate gradations. It may be right, and I have no doubt it is right, that the minimum of four years should be established; but the attempt to fix by legislation intermediate steps for the duration of penal servitude, such as six years in the one case, and eight years in the next, appears to me artificial certainly, but I do not know whether it can be considered as operating very successfully to meet the precise shade of crime which it is supposed to indicate, and I doubt whether the intermediate steps should not be left to the discretion of the judge, he being more competent than even the person who may examine the case after trial. The judge who tries the case is, generally speaking, the most competent to determine, as nearly as may be, what should be the precise amount of punishment to which the particular shade of guilt ought to subject the criminal.

3637. Then would your Lordship be of opinion that the true course to take would be to have a minimum of four years and a maximum of 10, leaving the judge to pronounce the particular sentence between the two, according to his views of the circumstances of the case?—That would be my view; but I do not say it with very much confidence. I think I ought to have mentioned at the outset that this question of penal servitude is really so new to us in Ireland, and we have known hitherto so little about it, that any opinion which I express I should be considered as stating with considerable hesitation. In fact, it is only within the last few months that penal servitude has been carried out in Ireland in the way that it has been a long time carried out in England. I rather think it is only since the appointment of the Board of Directors of Convict Prisons, with Captain Crofton at their head, that the system has been carried out at all; previously the convicts were, in many instances, kept in the ordinary county gaols during a great portion of the time for which they were sentenced to penal servitude, for the reason, I believe, that there was no receptacle ready for them. The only place adapted for the purpose for some time in Ireland was Spike Island, near Cork; but within the last two years, I believe, a very large depôt has been formed near Dublin, at Mountjoy, and I think there is another depôt constructing elsewhere. But in consequence of the want of room at Spike Island, the convicts sentenced to penal servitude were in many instances detained in gaol, not for months only, but for years. I happen to have seen a table, which was handed in to this Committee, I think by Mr. Waddington, containing an account of the numbers of tickets-of-leave which had been issued in Ireland. Now whether those tickets-of-leave were at that time issued to convicts under sentence of penal servitude, or under sentence of transportation only, I have no means of knowing; but I observe in that table that out of about 20 or 30, there were several who had been in gaol two years; some of them 2 years and 11 months, I think nearly three years in the common gaol; and of course the sentence of penal servitude upon them was almost a blank, because it was impossible to carry it out in the common gaol. One consequence of that has been, that a sentence of penal servitude, when pronounced in court, as every one present must observe, fails to have the effect, either upon the criminal or upon the bystanders, that a sentence of transportation almost uniformly has. The truth is, that the criminals do not know what is meant by penal servitude; they cannot know it, only within the last

last three months can the system be said to have come into operation, and the judge hitherto has had no notion of what his sentence of penal servitude amounted to, because nearly all that he had heard about it was that persons sentenced to penal servitude had been constantly kept in the common gaol up to a late period; accordingly any opinions which he might be expected to be able to form as to its effect, can be of comparatively little moment. It is only now that the system is in its commencement, and henceforth the judges may be expected to know something more about the matter, but hitherto any information which we have obtained is no more than what is accessible to all the public.

3638. Your Lordship observes that by the Act of Parliament the highest term for which penal servitude can be passed is 10 years, until you come to the last provision, namely, that instead of transportation for the term of life, penal servitude for the term of life may be inflicted?—Yes, I have observed that.

3639. Does it appear to your Lordship that it might be in any way desirable to introduce any gradation between the 10 years and the term of life?—Reasoning by analogy to what was done by the Legislature some years ago, namely, authorising a judge under certain circumstances not to pass the full sentence of transportation for life, but to reduce it to such lesser term, as under all the circumstances he might think fit, I do not know why that should not be applied to penal servitude as well. If it was a proper discretion to be vested in the judge as to transportation, I am not aware of any ground why a corresponding discretion should not be vested in him as to penal servitude.

3640. As this Act stands, as your Lordship observes, the judge would have no power to pass a sentence of penal servitude for 15 years or 20 years, as he could formerly have passed a sentence of transportation for either of those periods?—Just so.

3641. You see no reason why the power should not exist in the one case as in the other?—No; there may have been some good reason when the Act was framed, which presented itself to the framers of it, but I am not aware of it.

3642. Under the 9th section of the Act, as your Lordship remembers, there is a power given to the Secretary of State to grant to any convict under sentence of transportation or sentence of penal servitude a licence or ticket of leave?—Yes.

3643. Have you formed an opinion as to the probable working of that provision?—That is a matter upon which I have had no opportunity of forming any opinion, because the ticket-of-leave system, as I believe the Committee are aware from the evidence of other witnesses, has come into operation in Ireland only I think since the month of March last.

3644. The reason I believe given was, that you had really no convict prisons until that period, except the county gaols?—Except Spike Island and the Mountjoy Building, near Dublin. I presume that that must have been the reason of these persons being detained in the county gaols. Speaking of that table which was handed in by Mr. Waddington, I think it purported to be a return of the number of tickets of leave issued from some time in March to some time in April 1856; and it was stated at the foot of it that the issuing of tickets of leave commenced only in March last. Now, under those circumstances, it is very difficult for a person in my position to have had an opportunity of forming any opinion as to the working of that system; but I have already stated what occurred to me as to the general effect of remitting the sentence of penal servitude, and I have intimated that, as far as my opinion goes, certainty of punishment is far more important than almost any other circumstance connected with it; I mean as a deterrent from the commission of crime. If there were absolute certainty that every crime would be punished as it deserved, we should have very little crime committed in the world. In proportion as we depart from that absolute certainty of adequate punishment being inflicted, it is obvious that to the same, or to a corresponding extent, we diminish the deterring property of punishment.

3645. Has your Lordship had an opportunity of reading the evidence of Captain Crofton before this Committee?—I have.

3646. And the description which he gives of the measures which are now in course of being carried out in Ireland, or which have lately been completed, with the view of furnishing convict prisons similar to those which we have in this country?—Yes.

3647. Public works?—Yes.

Right Hon. *Nicholas Ball.*

23 June 1856.

3648. So far as your Lordship's judgment goes, is it probable that those measures which Captain Crofton so described will be attended with beneficial consequences?—Judging from his description, and from the effects which already, according to his statement, have been produced, I should say that there is every hope, and perhaps probability, that the system will succeed; but it being now in its infancy, it is exceedingly difficult to speak with any confidence as to what the future effects will be. A part of what he described was new to me (I take it to be original), namely, draughting off the criminals after a certain period into separate receptacles (iron buildings, I think, he said) by fifties, and placing three or four persons over them, the duty of those persons being to make themselves acquainted with the habits and character of each individual, or, as he called it individualising the prisoners by having them in these small bodies of somewhere about 50 each, under constant and immediate inspection. Perhaps there would be a difficulty in carrying this system out upon a large scale; but if it could be done, I should really think that it would do more permanently to reform the habits of criminals than anything which I have yet heard of; but, of course, everything will depend upon the mode of working it.

3649. Is there any other suggestion with which your Lordship can favour us upon the subject of our present inquiry?—I do not at present recollect any.

3650. Sir *J. Pakington.*] I understood your Lordship to state, just now, that you thought a sentence of penal servitude in Ireland did not produce the effect which was produced by a sentence of transportation, because a sentence of penal servitude was not understood?—That is one reason.

3651. Of course that reason, of which I can easily understand the force, as your Lordship puts it, is one necessarily of a temporary nature?—I should say so.

3652. May I ask your Lordship this question, as a matter of opinion, founded upon your long experience in administering the criminal law in Ireland; when the sentence of penal servitude is fully understood, and when it is clearly known to the Irish public that a sentence of four years' penal servitude means hard labour upon public works for that term of four years, whether with or without an additional year to be contingent upon the prisoner's conduct, do you think that the certainty of four years' penal servitude on public works will be as deterring in its effects as the late sentence of seven years' transportation?—I should say that, speaking generally of the criminals in Ireland, a sentence of transportation would have a more deterring effect; but unquestionably there are classes of criminals in Ireland, as elsewhere, who would, according to my judgment, be more likely to be deterred by such a system of penal servitude as you mention, carried out in the way that it may be carried out, than by transportation. Taking the mass of the criminals in Ireland, I certainly should say that transportation is a more dreadful punishment to them, and more likely of course to deter them from the commission of crime, than even penal servitude, carried out in the way you mention.

3653. I understand your Lordship's opinion to be, that there would be classes with whom the sentence of penal servitude would be the more deterring punishment?—Yes.

3654. But that those would be exceptional cases, and that with the great mass of Irish criminals transportation would be the more deterring sentence?—That is my opinion.

3655. Comparing, as I have done in my former question, the seven years' transportation under the old law with the four years' penal servitude under the new law, are you of opinion that that sentence of seven years' transportation would be the more deterring of the two, because exile and expatriation would be regarded as the severer punishment, or on account of the one sentence being longer in time by three years than the other?—It would occur to me that the circumstances which you have specified, namely, exile and expatriation, and I will add the improbability of returning home after transportation, make the sentence of transportation to Irish criminals more formidable than even the sentence of penal servitude.

3656. Your Lordship may be aware that at least one, and I think more than one, of the witnesses examined before this Committee, has deprecated the difference in time enacted by this new statute, and has recommended that the sentences of penal servitude should be identical in point of time with the former sentences of transportation; leaving in that case a considerable margin, of course,

course, to be influenced by the prisoner's conduct. Supposing that that modification in the law were made, and that the penal servitude sentences were made as long as the former transportation sentences used to be, would your Lordship still entertain the same opinion that the transportation sentence would be the more deterring in Ireland of the two?—I should find it somewhat difficult to give a satisfactory answer to the question. The hypothetical case which you put is of the sentence of penal servitude and the sentence of transportation being co-equal in duration. Still the sentence of transportation would have the attendants which I have pointed out, and which would not belong to a sentence of penal servitude, however prolonged. The improbability of return might not operate so strongly in the case of a seven years' sentence of transportation as in the case of a sentence of a longer period; but still the improbability of return would have its operation even then, and the exile and banishment of the convicts from their country, their family, and friends, would have their full effect, and these, if I mistake not, are the most influential of all the circumstances connected with transportation in the case of Irish criminals.

3657. May I ask whether your Lordship can specify those classes of criminals to which you have referred, in whose cases you are of opinion that even in Ireland penal servitude might be the more deterring of the two sentences?—I should say that they are the more desperate class of criminals; those who are upon the world without any tie attaching them to society; who have neither family nor friends, nor perhaps a local tie of any kind. I should think that individuals of those classes would feel the irksomeness of penal servitude, more perhaps even than transportation. If they were fully aware what penal servitude was; if they knew that it was to be the strict unremitting application of labour and confinement, and severance from all association with their companions, even in gaol, I should think it likely that in the case of criminals of that class who had been theretofore free over the world, and unrestrained in their impulses, the confinement and restraints and toil of penal servitude for years, which they would contemplate as the certain effect of the commission of crime, might have, upon the whole, the consequence of making them dread penal servitude in that sense more than even transportation. The same class of persons might be often not unwilling to go off to a distant country, even as convicts, to try their fate there, if they had no hope at home of bettering their condition, and being persons of desperate character, they might be more likely to wish to go abroad, no matter what the result might be, than to remain at home.

3658. But your Lordship is of opinion that that class of habitual criminals forms a small minority of the cases which are brought before the Irish courts?—Certainly.

3659. Mr. *Ker Seymer.*] Your Lordship has stated that the judges are not always precisely aware of the manner in which their sentences are carried out; do not you think it desirable that there should be a more frequent and complete communication between the Secretary of State and the judges with reference to that subject?—I should say that some mode should be adopted to enable the judges to know what is the meaning of the sentence which they pronounce. I speak, of course, of Ireland. Hitherto, as I have already intimated, we really have not known how the sentences are carried out.

3660. Has your Lordship ever passed a sentence of 10 years' penal servitude?—No; I have passed a sentence of six years, but I do not think that I have ever gone beyond it.

3661. Even the dread of six years did not appear to you to produce such effect in the court as transportation?—Not the least. I may be supposed to use too strong a term when I say "not the least," but I am speaking in relation to the effect that the sentence of transportation would produce. Any one who has happened to be in a court of justice in Ireland must have observed that a sentence of transportation, particularly if it is passed upon a person who has ties of kindred and relationship and association in the district, produces sometimes quite an appalling effect; the screams of the women, and the clapping of hands, and the variety of other modes by which they express intense grief are very striking.

3662. Is that feeling against expatriation in Ireland as strong now as it was before the very large amount of voluntary emigration?—I should apprehend so; I have had no reason to observe the contrary. The condition of the people being more comfortable than it was before, it is likely that those sentenced to transportation would have stronger ties for remaining in their own country than before.

Right Hon. *Nicholas Ball.*

23 June 1856.

3663. Mr. *Deedes.*] In answer to a question from the Chairman, when speaking of the alteration of the law, your Lordship suggested that there might be a minimum period of four years and a maximum of 10, respecting which judges should exercise a discretion in passing sentence?—It occurred to me that perhaps that would be more desirable than to graduate the scale as it is now, making stoppages at six and eight years intermediately. I can hardly think that those precise stoppages can be considered as satisfactorily applicable to the degrees of crime to which they are annexed. You may every now and then hit the thing off well, but the shades of crime vary so much, that it becomes a very artificial system to endeavour by our legislation to apply the precise duration of six years and of eight years' penal servitude as the fitting punishment for particular crimes.

3664. There are certain crimes which are now punished by the minimum of four years' penal servitude, as representing the former period of seven years' transportation. Would you so alter the law as to visit that description of crimes with a much higher extension of punishment, up to 10 years, if the judge thought fit so to do, leaving a term between four years and 10 open to be applicable to any cases, including those which have hitherto only been considered punishable by seven years' transportation, now represented by four years' penal servitude?—With regard to that, I should say that there would be great difficulty in leaving to the judge the discretion of sentencing, for instance, to 10 years' penal servitude a criminal who, before the change of the law, was subject to only seven years' transportation; but if it were done, I should think that the discretion might be guarded in this way, that the amount of transportation by which the crime was to be punished before penal servitude was introduced, should be the rule to regulate the judge's discretion in awarding penal servitude under this supposed discretionary regulation.

3665. Would not that be in effect keeping up very nearly the same scale which is now laid down in that particular section of the Act to which allusion has been made?—It might in effect be the same, or nearly so; but instead of tying down the judge to six years and eight years according to the description of the crime, it would leave it open to him to consider whether seven years, or five years, or nine years, as the case might be, would not be applicable to the precise shade of crime which he had to deal with.

3666. Cases of even simple larceny are sometimes connected with circumstances of a very peculiar character?—Yes.

3667. In some instances the judge would be justified in passing the lightest sentence which he could; in others he would seek an opportunity, and think it right to pass the extreme sentence?—Yes.

3668. Would you extend the discretion of the judge, in cases of that sort, to 10 years, if necessary?—I should say, certainly not. I certainly did not intend to suggest that in a case of simple larceny, for instance, the judge, in his discretion, should be empowered to sentence the criminal to 10 years' penal servitude, but I considered that he should be regulated in the exercise of his discretion by the state of the law as to transportation with reference to the crime that he had to deal with; that is to say, whereas now simple larceny is not punishable by transportation, nor is it now punishable by penal servitude, of course the discretion which the judge might have as to the amount of punishment between the minimum of four years and the maximum of ten years would not apply to that case at all; because, by the law as it stands, simple larceny is not punishable either by transportation or by penal servitude; the only punishment which at present is applicable to it being imprisonment and hard labour.

3669. Then you would refer that minor description of offence, such as simple larceny, to the punishment now applicable by law, namely, imprisonment up to two years?—I should say so, accompanied with hard labour at the discretion of the judge.

Captain *Alexander Maconochie,* R. N., called in; and Examined.

Captain *A. Maconochie,* R. N.

3670. *Chairman.*] YOU are a Captain in the Royal Navy?—Yes.

3671. Have you paid a good deal of attention to the subject of transportation?—A great deal; I was mixed up with it during eight years.

3672. You are aware that we are now inquiring into the operation of the late Act of Parliament, and into the provisions of that Act, to see whether any alteration can be suggested in them with advantage?—Yes.

3673. I believe you were examined before the Committee of the House of Lords on the subject of transportation in the year 1847?—I was.

3674. And you gave on that occasion all your views upon the subject of the mark system, and a variety of other subjects?—I think I did; I have not looked over that evidence very recently.

3675. We will confine ourselves to the subject which is at present before this Committee; have you considered what the operation of this Act of Parliament has been?—I have had no opportunity of considering it; I have received no original information upon its operation.

3676. Have you formed any opinion as to what its probable operation will be?—A very strong one.

3677. Will you state it?—I have read over the evidence, so far as it has been published, and I have observed that the Committee have attached considerable importance to questions put to the several witnesses, whether they thought that this late form of punishment generally would be more or less deterring. I should very much like to state that, upon my experience, there is no punishment short of death which is very materially deterring; I think the temperaments are so various, and very many people are so sanguine, that they think very little of any denunciation. I will quote an example which has occurred to me since I have been in the room, and which I only quote as being very striking. It is the case of a man of the name of Wright, who was transported 40 years ago from London, and who after living 30 years in New South Wales in tolerable repute, was transported to Norfolk Island when above 90 years of age. It was a case in which he thought that he was hardly dealt with; he had passed notes which very much resembled the Australian Bank notes, but which were in fact what are called in cant language notes of the bank of elegance; they were not correct, but they were made very much to resemble the real notes; he was sent to Norfolk Island for that offence, being then above 90. He came down to me; I examined him, as I did all the prisoners, with very considerable detail, and he stated the hardship of his case, and that he ought not to have been transported for that offence under the existing law. "But," said he, "I do not care; I shall have it out of them yet; I am only a 14 years' man, and consequently I shall have another trial." That was a man, I think, of 92 years of age, and he congratulated himself that he was only a 14 years' man. Let us remember ourselves, how few of us get to my time of life, without having very earnest advice from our doctor. It is quite as serious, being almost a case of life and death in a great many cases, and yet how very few attach extreme importance to it, or are not led aside. Therefore deterring punishment is a mistake.

3678. Do you not consider that one punishment is more deterring than another?—I think scarcely.

3679. You do not consider that transportation is more deterring than imprisonment?—I think it is less so nowadays; I think that transportation in these gold times, at all events to Australia, would be rather an inducement than otherwise. But at all events, I know practically that transportation used to be spoken of by those who had endured it as no very great misfortune.

3680. Then you are not favourable to the continuance of the sentence of transportation?—I think that you must transport again if you keep everything else as it is now. In existing circumstances, under the present system, you must get rid of the convicts for your own sake. I do not think that transportation will have very much effect upon those subjected to it, but the community must get rid of them; you keep up so very many who are not fit to be at large in a free community, that you must transport them. But what I much more strongly recommend is, to consider the causes, especially of aggravated offence, which is so prevalent now, and to endeavour to get rid of them.

3681. You mean the causes of crime?—The causes of the aggravated crimes with which we are so very familiar.

3682. What do you think of the penal servitude system?—I think it is very bad, inasmuch as it is a mere time sentence. I think it puts nothing in a man's power by which he may shorten it.

3683. Do you object to all time sentences?—I do not object to *minima* of time. I think, on the contrary, *minima* of time prevent abuse, and prevent a man getting off too easily, and I should say *minima* of penal servitude also; but I would never adopt *maxima* of time. I am quite certain that *maxima* of time are excessively injurious.

Captain *A. Maconochie*, R.N.

23 June 1856.

3684. What would you say to this, that a man should be imprisoned with penal servitude for a period, say of four years, and then set at liberty if his conduct during that time had been good; would that be a proper system?—I think not; because under the existing system you have no means of verifying good conduct.

3685. Is that your objection to it, that under the present system you have no means of verifying whether it is good conduct or not?—Yes.

3686. But you are favourable to the principle of making some remission of the sentence contingent upon the man behaving well?—Very favourable indeed.

3687. The thing to be aimed at, according to you, is to have some means of determining whether there really has been good conduct or not?—Certainly; but I think a mere average taken from the caprice of an officer at a particular time is no system at all.

3688. Your mark system you regard as the true system?—I regard the mark system as, in short, the key to the lock. I think that it would get rid of all your difficulties, and that nothing else will.

3689. Is that the mark system as described by you to the House of Lords in your evidence of 1847?—Not quite; it was not then so matured in my own mind as it has become since. I then spoke of marks merely as wages; now my impression is, that marks ought to be certificates of daily conduct, and then you are sure that you will not make your wages too high or too low—that no caprice, in fact, shall influence them.

3690. Just describe a little what you mean by that answer?—I went to Norfolk Island under every possible disadvantage, and one of them was, that I was sent to work out a new system of my own concoction, without any means of giving value to that by which I sought to stimulate the men. The Government sent me there without providing in any shape or way whatever for keeping up the value of the marks. The consequence was, that giving marks as wages, as they sank in value, unfortunately I rose in my offers, in order to keep up, if I possibly could, their influence. That went a certain way, but in time the whole sank together; there was no stimulus at all created by the marks. In introducing the mark system here, I would make the daily records strictly according to a scale, a record of conduct. Taking the scale of 5, which I last introduced, I would say that 3 is rather better than the average, 2 is rather worse, 0 and 1, 4 and 5 are of course the extremes. What the Governor has to do is to call his officers and say, so-and-so and so-and-so. "Tell me, in your department, what has been that man's conduct for the last day; has he been rather better than the average of good, or has he been considerably worse?" that is to be recorded; and so with all the others, the chaplain, schoolmaster, and every one else. Then when you have your figures so fixed that they are really a record of conduct, you cannot fall into the mistake into which I subsequently fell in Norfolk Island. I had only five free overseers with 1,500 or 2,000 men. If I had made it a mere mark and testimony of conduct, I had no one to work it. I could not trust one prisoner to give the character of another prisoner; but when I gave marks I begun with 10 and 12, which were sufficiently stimulating, inasmuch as they had so much to pay for the ration out of them, and I at last got up to 18 and 20. That could not be the case under a system which would make marks simply a record of conduct.

3691. Is not the system which you have described something like that which has been described before this Committee, in which they have been told that at Portland and Dartmoor there are daily records made of the conduct of the men while the matter is fresh in the memory of the officers, and that at the end of a certain period they see what the result of the men's whole conduct has been during that certain period?—That is precisely the system, only less specific than my method of doing it.

3692. You have a system of marks?—That system, at Portland, details day by day the average of the conduct which the testimony of the officers bears out.

3693. It is the same in principle as your system, is it not?—The same in principle, but it is very defective in detail.

3694. What would you suggest with regard to the detail?—I suggest that the warder who has charge of the ward in which a man is berthed should be called on to affix a mark (2, 3, 4, or 5, according to circumstances) in regard to his general demeanour, his respectfulness, his good-nature, his cleanliness, or

the

Captain *A. Maconochie*, R. N.

23 June 1856.

the reverse. So with regard to the man who superintends his work: he should be called on to affix a mark to his diligence on the one hand, and his efficiency on the other. The chaplain and schoolmaster, in like manner, should affix a mark specifying what the prisoner actually knows, and below it I would suggest a fractional form of figure to express the diligence which he shows. Then you might sum up these marks, and you would have something to show for your average: you would see where a man has succeeded, and where a man has failed; you would get a specific notion of his character from his habitual successes and failures, and you would act accordingly. You would encourage a man where he is weak, and you would modify your treatment when he is strong, cautioning him against excess.

3695. You consider, I suppose, in the different marks, that there should be present to the mind of the man all the time that he is undergoing his punishment, the motive of hope of the remission of a certain period in case of good conduct?—Clearly; and I have no objection to fix a minimum time to prevent abuse.

3696. You have no doubt that it is advisable to fix a minimum time; that it is to be understood, that at all events the man is to have that amount of punishment?—That amount of detention.

3697. And whether more, is to depend upon his own good conduct?—Yes; but his own good conduct, testified in a satisfactory manner, and not a vague average, depending very much perhaps upon the bilious system of the officer who affixes it.

3698. Have you any other information to give us with respect to this matter into which we are now inquiring; you will bear in mind that we have the advantage of reading your evidence before the House of Lords in 1847; anything that you wish to add to that, or to vary in it, we shall be glad to hear?—I will be as short as I can. I will begin by calling the attention of the Committee to the fact of crimes being more atrocious at this time than they used to be.

3699. Do you consider that they are much more atrocious now than in former days?—More aggravated. We have had offences within the last two years which were before unknown; I do not say they are more numerous; I have no means of knowing.

3700. But worse in character?—Yes. Your desire in your previous evidence has been, to ascertain what forms of punishment will be most deterring. I have mentioned upon that point that you will find none deterring, except the punishment of death, which is necessarily deterring.

3701. You will remember that we are not inquiring here into the punishment of death; the question here is between transportation and penal servitude?—What I recommend earnestly is, not to lose time in seeking out more or less deterrents, but to seek out rather the causes which lead to crime, and in endeavouring to check these you will gain the end of punishment without going through the process of punishment. I think the existing punishments inflicted upon the minor criminals are one of the principal roots of the aggravated character of offences. You put a whole parcel of men in seclusion in prison; you studiously and almost deliberately determine to make them worse; no man goes into prison who does not come out a worse man than he went in; and then you turn them out, without having transportation to relieve you of the dregs and sediments. Whether it is necessary to recur to transportation now or not, I cannot say, but I am quite certain that you must come to it. Every second man will assault or poison his neighbour, or do something of that sort. You will go on from bad to worse. You cannot get rid of the sewer which you are emptying out of your prisons into society. I think that transportation, if you persist in that system, is inevitable; you must either hang or transport everybody.

3702. So long as things remain as they are, you must keep up a certain portion of transportation, so much of it as you can; is that what you say?—A very large portion. I would rather put them at the bottom of the sea than allow them to be doing nothing but mischief in society.

3703. Are there any of the particular provisions of this Act of Parliament about which you wish to make any suggestion?—There are none; so long as you retain time-sentences, I am quite certain that your embarrassments will go on increasing; and in so far as Government is understood to have said that four years' penal servitude shall be carried out rigidly to the letter, whether a man's conduct

Captain *A. Maconochie*, R. N.

23 June 1856.

conduct is good or bad, so long you will just be in a worse difficulty than you are now; but, on the contrary, if you adopt a mark system (for I stand steadily to that), by which you really would know the men whom you had, with moderate *minima* of sentences, you would know what their character was, and would have a constant stimulus to improvement, and society could form a judgment of them from that. I believe that they would go on improving more and more. I do not think it ought to begin at the top; it ought to begin at the bottom. It is the elementary prisons, the local prisons, which first receive criminals, when they are not hardened, and when they may be turned (and encouragement will turn them), and from which they can get an easy issue, if they do get improved in their ways physically and morally, that should be primarily attended to; then you will find that the heinous offences which now exist will progressively and gradually cease.

3704. You have expressed an opinion that it is desirable to have a minimum fixed below which the punishment shall not go, and to have the actual amount of the punishment above that determined by the man's good behaviour?—Yes.

3705. Then you would propose that there should be a certain period of the term remitted in case of good behaviour?—You express it differently from what I would; I do not like the word "period" or "time" in any shape or manner.

3706. But you propose that when a certain minimum time has passed there shall be the power of remission in case of good behaviour?—I do not think the executive should interfere at all; the man beyond that time should get out when he has earned a complement of marks.

3707. Would you be favourable to any system of tickets of leave?—It is difficult to say; I do not think a ticket of leave will do good now; I think tickets of leave are doing a great deal of harm at present.

3708. Why do you say so?—Because you keep in the country men who are thoroughly demoralised.

3709. If you let men out at the end of a time absolutely instead of conditionally upon a ticket of leave, would you not have that evil?—You keep up a class in society; I have not a very strong opinion regarding it; I am not certain whether the ticket-of-leave system would work beneficially or the reverse; but I am quite clear that men discharged from under the mark system would be found improved, and more and more worthy of return to society, in proportion to the number of punishments which they had endured; whereas as it is now, the longer a man is in a criminal career the worse he becomes.

3710. Is this a correct view of your system, that a man should be imprisoned up to a certain time as a minimum, and that he should then be entitled to his release as soon as he had gained a certain number of marks?—Not quite so; I would imprison a man for a certain time, but he should begin from the beginning earning his marks; he should not pass out in that time *quà* time; if he has not earned marks corresponding to that time, when the time has elapsed he should have to go on.

3711. He is to go on getting marks from the beginning if he behaves well?—Yes.

3712. Then as soon as he has got to the minimum time which we speak of, and has acquired the number of marks which you would recommend that he should, he is to be entitled to discharge absolutely?—It is difficult to speak positively on that; but I think he should be.

3713. Without any ticket of leave?—I think a ticket of leave, unless with grave circumstances, hardly necessary; at the same time I would not object to a ticket of leave, though I think, at present, they are doing a great deal of harm.

3714. For the reason which you have given?—For the reason which I have given, that the men are not improved by their punishment, and therefore they come out under the double disadvantage of a demoralised state of mind and a stigma upon them.

3715. Sir *John Pakington.*] I understand you to say that you think it is impossible under the present system to test the good conduct of prisoners?—Yes.

3716. Then how would you propose to apply your mark system, if you have no criterion of good conduct now?—Because at present you have no detail of what conduct is considered good, or what bad; you merely have a parcel of averages given to you; a man is said to be average good or average bad upon all sorts of things; whereas I want to give marks showing what is good, and what is middling, and what is very good, and what is very bad, and by that means I can acquire a sort of notion.

3717. Do

3717. Do you think that under our present system, including both separate confinement and also labour on public works, it would be possible to establish a satisfactory system of marks turning upon good conduct?—Yes, quite.

3718. I understand, that for every crime, according to the magnitude of that crime, your sentence would embrace a minimum longer or shorter, according to circumstances; and beyond that minimum the period of detention must turn upon the prisoner's conduct, without any maximum?—Without any maximum.

3719. I have correctly described the system which you would desire to adopt?—Yes, I think so.

3720. Mr. *Monckton Milnes.*] I believe you were some time at the head of the prison at Birmingham?—Yes.

3721. Did you apply the mark system there?—I could only apply it, and very imperfectly, to the boys; the visiting justices would not allow it in any form or in any degree to be applied to the men nor to the women.

3722. You therefore do not think that your experience in Birmingham was any test whatever of the value of the system?—So far as it went, it was very successful, but it was no test; it was interrupted in the very middle of the most promising period.

3723. In what do you draw your main distinction between your mark system and that of a careful and general superintendence of the conduct of each prisoner?—In its precision. A careful general superintendence always deals with averages.

3724. Must not that precision in itself depend upon the judgment and ability of the officers who apply it?—I think not. As it is at present proposed, each sub-officer makes a certain report once a day to his superior of the conduct of a man on some one particular point, which scarcely admits of cavil or question, taken day by day. Now all careful supervisions are matters of opinion; they may be more or less careful. A man, according to the state of his own mind, or stomach, or temper, says this is good, and this is inferior, generally and comprehensively; but if he is tied down to state in what respect he judges this man to have behaved well or ill, it hardly admits of any discretion at all.

3725. Do you think that by an accurate attention to this mechanical process, you would arrive at some certain moral conclusions?—I do.

3726. We have it in evidence, and I believe it is generally admitted, that the prison character is by no means a distinct evidence of the disposition of an individual; how would your system prevent a hypocritical or a clever man from gaining a good character in prison, and affecting a change which has really not taken place within him?—Because it is another portion of the system to place temptation within his reach, and it is a very great feature in his character whether he resists that temptation or not.

3727. Would you effect a means by which you could test the character of the individual?—I should see how far he practices indulgences which he ought not, and which are contrary to the earnest advice of the person over him.

3728. Have you reason to think that these mechanical means would produce such a change in the character of the individual as to enable him, when discharged from prison, to become a good member of society instead of a dangerous man as he is now?—I think he would be certain to be improved. I do not mean to say that he would become at once good; but if he did not become good with one such punishment, he would become better with a second, and better still with a third, and progressively he would be an altered man, I am confident. He would either be an altered man or (which is another point that I wish very much to impress upon the Committee) he would be shut up, through his own fault, for life; because in the administration of punishment I would show extreme severity to frequent re-convictions. At present they are almost boasted of. On Norfolk Island it was a common boast of a man that he had run a long "rig" with so-and-so before he was "lagged," as they called it. The fact was that he was getting worse and worse from day to day, and at length he stepped over the border.

3729. *Chairman.*] Then would you make his imprisonment continue until he had acquired a certain number of marks?—Every progressive re-conviction should add, say one-third, to his mark and sentence. The minimum time might remain, for it would have passed; adding one-third for a second conviction, and another third for a third conviction, would soon double his original sentence, and I do not think that any man would set it at defiance. Say that his first sentence

Captain *A. Maconochie*, R.N.

23 June 1856.

was 6,000 marks, his second sentence should be 2,000 more, his third 4,000 more, and his fourth would double the original 6,000, and the man would find that he was playing a very losing game. I suggested, in my evidence before the House of Lords, that beyond a third re-conviction he should be branded, and I am still favourable to the suggestion, although my friend, Mr. Hill, is so exceedingly angry about it. At all events, as a general principle, nothing is so important as checking the trade of crime; successive re-commitments and re-convictions for trifling offences harden the individuals and destroy their class.

3730. Mr. *Adderley.*] Have you anything to add to what you have said to-day upon task sentences?—I think not.

3731. Do you propose in any way to combine task sentences and time sentences?—Yes; inasmuch as I shape a task sentence to correspond to a time sentence.

3732. Would you have in any case a man sentenced partly to the one and partly to the other?—I would begin with a task sentence, with a minimum of time.

3733. Is there anything in the principle of the task sentence which you propose which at all comprises the view of reparation in case of felony of the property stolen?—I think it is impossible to work a sentence of reparation, because an exceedingly minor crime may cause a very heavy loss, and a very deep amount of moral wickedness may cause a very trifling loss. I think it is much better to inflict a task sentence in proportion to the moral character of the offence, and not to the pecuniary one.

3734. Do you not think that the principle of reparation, if effectively carried out, would be a great deterrent to habitual thieving, if a thief and the thieving class generally felt convinced that they would invariably have to restore, say five-fold the property which they stole, however small the property might be?—It would be a check perhaps upon pocket-picking, and minor offences of that character; but in the case of a theft of 1,000 *l.* by a man or boy, it would be impossible to say that he is to replace it; the thing is a moral impossibility.

3735. Are not three-fourths of the felonies committed, or more than three-fourths, of a very small value?—I believe they are.

3736. Would not those three-fourths, if that is the proportion, be open to such a principle of punishment being applied to them?—I think that that principle, with a little caution in arranging its details, might be a very useful one; it seems a very natural one, that a man or a boy should repay what he has taken.

3737. That was the principle of the law when God was the lawgiver, was not it?—Yes.

3738. Therefore, probably there was wisdom in it, though it may not be applicable in the same way to different circumstances?—I have no doubt of it.

3739. In your opinion, in the great mass of cases where felonies are under 2*s.* value, if such a principle could be effectively carried out, do you think it would be deterrent of habitual thieving?—I have no doubt it would; it would deter the parent from encouraging habitual thieving. I think, as bearing upon the parent's concurrence, it would be valuable.

3740. Have you maturely considered the point?—No; I have always felt in my own mind that it was impossible to carry it out.

3741. But that impossibility seems in your mind, from what you have said, to attach rather to felonies of large amount than to what are the great majority of felonies, namely, of small amount?—Not quite. My objection applies to this, that a very heavy moral offence may produce either a large or a small result, and that a very slight moral offence may operate in like manner; and it is desirable that punishment should have a bearing upon the moral character of the offence more than its pecuniary character.

3742. In that answer you are rather considering your views of moral reformation than simple treatment deterrent of the offence?—I have set no value at all upon the deterrent; but at the same time that is not quite so. A small or a large pecuniary gain may be accompanied with deep ingratitude or with a very casual impulse, and the moral character of the offences is totally different. Were the offence to be visited by compensation, there would be no difference, which I think would be a very great misfortune. The advantage of tasks passed by public sentences is, that you may apportion each amount strictly to the moral character of the offence.

3743. In

3743. In penal servitude, carried out as you propose, would such punishment meet all cases of what we may call secondary crime, or do you propose reserving still transportation as a sentence for certain crimes?—I think at present you can hardly by any possibility do without transportation.

3744. Supposing transportation to cease, would your mode of punishment, do you think, serve to meet all the requirements of secondary crime; all crime short of capital?—It would, if all the changes which I have suggested were made; but the mark system is only one of several.

3745. What are the other systems to which you allude in that answer?—I should like to see a total change in the mode of carrying out the punishment. I think the military type should be abolished, and the penitentiary type brought into the gaols; the military type is a type of force, but the penitentiary system of black coats instead of military jackets would have a very much better effect upon the men, and the mere change would have a good effect upon them; they would feel that they were about to be persuaded and won over by exhortation and other suitable means, and not to be driven. Then I think that the governors ought to belong to a profession; I think it is very wrong to allow magistrates to elect their own governor; it should be a department of the State, and men should enter the department early, and rise gradually through successive stages, with a regular practical and scientific education for the purpose, and then you would be quite sure that a man would not be either a blockhead or a capricious person, capriciously lenient or capriciously severe; he would be like a surgeon trained in his profession. In like manner, if you change the type in the gaol, you must improve partly the *status*, but more the character of the inferior officers. I would myself positively and entirely declare that a man who either drank or smoked should be incapacitated; he should not be there, because he would be setting a bad example to those whom you wish not to smoke and not to drink. In like manner, if he had not a proper feeling regarding the habit of reform, he ought not to be there; he ought to be somewhere else, to be more useful. There is a system at present by which the prisoners are sequestered from their families altogether, and from all communication with their families, except only once in three months; that has an exceedingly bad effect; it alienates a man from his family, and he returns with his domestic feelings entirely cooled, and it alienates his friends from him outside; he returns a perfect stranger. I say that under the mark system he ought, for all communications of that kind, to pay a forfeit; he should pay two marks for receiving a letter, and four for sending one, and five for a visit, or a proportionate amount; and he should thus be able to keep up, while in prison, a connexion and an interest in his family; to keep up his domestic ties, in short; it is of excessive importance to keep up a man's domestic ties.

3746. Mr. *Monckton Milnes*.] If it is of importance for him to keep up his domestic ties, why would you attach to it anything in the nature of a penalty; why would you attach to it the penalty of losing these marks?—That he may make a sacrifice in order to obtain an advantage; I do not think he should get anything for nothing.

3747. *Chairman*.] That he may purchase the privilege?—That he may purchase the privilege; it is four marks less towards liberty; it is a considerable sacrifice to him. Then I think that there is an exceedingly bad practice just now. On the particular days when a man is due for a visit, anybody may come to see him; the receiver who led him into crime may come or anybody else; there is no restraint at all. I would allow a man greater latitude with respect to visiting and corresponding; visiting especially: but I would provide that the visitor should bring a statement from the police of his or her relationship if there is any, and of his or her general character, not being notoriously bad; that would have an extremely good effect. A great deal of improper communication goes on through the loose manner in which visitors are admitted into gaols.

3748. Mr. *Adderley*.] Have you any suggestions to make as to greater facilities being given to prisoners on their discharge to get into honest employment?—My strong impression is, that all the difficulties arise from the manner in which they are demoralised in the prison, and that mere assistance, helping a lame dog over the stile, will not do much good; but if, on the contrary, the object of prison discipline is to make a man an efficient man, he does not require very much assistance.

Captain *A. Maconochie*, R. N.

23 June 1856.

3749. You mean that if a prisoner is reformed in prison, he will easily get honest employment on coming out?—Reformed and made efficient.

3750. But do you think that the public would have such confidence in your system, that they would be encouraged by that process of reform to take the men?—They would progressively.

3751. Not at present?—Not at present.

3752. Do you think then, that if your system was effectively carried out, there would be no necessity for institutions to enable discharged prisoners to get into employment?—I certainly do, after a time; but you cannot pass from one system to another all at once.

3753. Supposing your plan is not carried out, and the existing plan is continued, have you any suggestion to make as to assisting prisoners on their discharge?—The sooner they are got out of the country the better. I cannot see any other mode.

3754. When you say the sooner they can get out of the country the better, would you assist them to get out of the country at all; are discharged prisoners likely to go out of the country of their own accord?—I think that the existing circumstances are so unfavourable, that I would assist them in any way, not on their own account, but for the protection of society.

3755. In England?—In England.

3756. But you have not any proposition to make either as to any way in which you think Government might assist them, or private individuals, in the way of institutions of *patronage*?—No; if you make the infliction of punishment, from the very beginning, an educational system, I am quite confident that in a short time (it must take a little time) you will have no major criminals at all.

3757. You are aware of the difficulty which is now experienced as to finding places to which to transport criminals?—Yes.

3758. And that the Falkland Islands have been very much talked of as a likely place for a new penal colony?—I think it is too near the South American coast.

3759. From your experience in Norfolk Island, do you think that if the Falkland Islands were so used, they would be open to the same dangers which were experienced in Norfolk Island?—To what specific dangers do you allude?

3760. I allude principally to the collection of so large a male population upon a small island?—It very much depends upon circumstances. Under the improving system which I maintained on Norfolk Island, while my system was in full vigour, I believe unnatural offences became altogether unknown; and the best proof that they became at least a very small minority, was the excessive indignation of the prisoner when a certain coarse expression was applied by the one to the other. I had a constant plague in keeping the peace between them when they quarrelled about it. When I went to Norfolk Island, it was perfectly known and pointed out habitually what men were the colonial women, as they were called, and lent themselves to this abomination; and it was impossible to obtain sufficient evidence to convict any of them, because the whole population was banded together to conceal the precise facts.

3761. Mr. *Monckton Milnes.*] But you believe that your system very much remedied that horrible state of things?—I am sure that it did so, very much; and that the element of hope, and effort and exertion, and aspiration after the recovery of a position in free life, revived, as it were, their manly feelings upon that subject.

3762. Mr. *Adderley.*] I suppose, with even your most sanguine expectation, you never anticipated that Norfolk Island would be anything more than a penal settlement; you never expected it to develope into a free community?—It had no harbour.

3763. Do you suppose that any island of even double that size, supposing it had harbours, if it was first peopled as Norfolk Island was, could develope into a free community?—I think, if properly managed, a penal settlement might become perfectly successful in the Pacific.

3764. If the Falkland Islands were not so near the continent of America do you think that those islands might be safely used for a penal settlement, with a view to the country developing into a free community?—I think there are many disadvantages; the climate is too rigorous; the returns are too uncertain.

3765. There is nothing in the smallness of the island which, in your mind, would cause a penal settlement there to degenerate?—Not necessarily; it would depend

depend entirely upon the management. I am confident, that under a mark system of management in judicious hands, no matter how small the island, you would have it perfectly in order; but you must keep up the element of hope, and you must keep up a tolerable certainty of the benefits at the end.

3766. Have you any suggestions to make as to diminishing the danger by the introduction of free settlers at the same time, or by the introduction of women?—No. It was remarkable in the penal colonies that the introduction of bad women aggravated the evil; there was more unnatural offence when these women were abundant than when they were not.

3767. What do you think of the feasibility of the plan of introducing free settlers, both men and women, or the wives and daughters of the convicts themselves?—I think, if they could be separate, it would be very well. I have sketched an idea that if you had three stations, one for male convicts, another for females, and a third for male and female, under proper regulations, to intermarry if they saw fit, and to have the wives and families of deserving men, it might be quite easily done under the mark system, making a man always pay a certain amount of marks, and before he had earned a certain amount of marks he should not be allowed to go to the advanced station; so with women in like manner. It must be always observed, that it is very difficult to anticipate where you do not specify the system; because, in proportion as the mark system elevates a man and improves him, and qualifies him to resume his place in society, so does the existing system make him worse and worse from day to day and from hour to hour.

3768. But in order to carry out the mark system in a distant settlement, the men sent out there must either be in an absolute state of imprisonment, or under very strict police surveillance?—It need not be very strict.

3769. *Chairman.*] You said just now that you thought there might be some settlement made in the Pacific; what were you alluding to then?—I think the disadvantage of the Falkland Islands is their rigorous climate, making returns uncertain, and therefore discouraging steady industry; but in the Pacific, I think a penal workshop, as it were, which should cultivate and form the nucleus of an industrial community, might be very easily managed, and might pay its own expenses.

3770. Lord *Naas.*] Would not the presence of a large native population be against it?—Very much.

3771. Is not that the case in the islands of the Pacific?—You would have to remove some population or another.

3772. You would have to depopulate the island of its original inhabitants first?—Yes.

3773. Mr. *Adderley.*] What is the value of a workshop so distant; why not have a workshop in the Hebrides?—It is not with reference to the English market at all, it is with reference to the community in that vast sea.

3774. Do you think that the advantage of a market in the Pacific would counterbalance the enormous expense of sending prisoners to the other side of the globe?—I think that it would be for the public benefit, combined with the mark system. You would get exertion for marks, and be pushing the men on to freedom; and, on the other hand, you would get the money itself.

3775. Mr. *Ker Seymer.*] If you were at liberty to carry out on a large scale your system as now developed, what proportion of criminals do you think you would find to be utterly incorrigible?—None at all. I do not think there are any criminals who are incorrigible.

3776. Your experience leads you to say that?—My experience leads me to say that there is no man utterly incorrigible. Treat him as a man, and not as a dog. You cannot recover a man except by doing justice to the manly qualities which he may have about him, and giving him an interest in developing them. I conceive that none are incorrigible where there is sanity; there may be some proportion, but very small.

3777. And, according to your system, until the man was recovered you would not restore him to society?—No. I would put temptation in his way, and until he resisted that temptation he would not be fit for society.

3778. *Chairman.*] You are looking at your memoranda; is there any other point upon which you wish to speak to us?—Nothing of any importance. On Norfolk Island I adopted a plan which I found assisted my labours very much in apportioning sentences. I found a man guilty of a particular offence in a

Captain *A. Maconochie*, R. N.

23 June 1856.

certain degree of aggravation; first, second, or third. I think that something of the same kind is done in France, and his sentence is passed accordingly. I think sentences should be made as certain as possible; and I think it would be a good introduction to give power to find a man guilty of such and such a thing in a certain degree of aggravation. It is not a very great alteration from the present system, but still I think it would be an improvement. There is one thing more which I should like to mention.

3779. Does it bear upon the question which we have now before us?—It does, to a certain extent; it bears more directly, as you will see, upon capital executions; I think that at present society cannot do without the protection of the punishment of death; and, on the other hand, probably the criminal classes could not well do without the terror of death; but I think it works most unsatisfactorily at present; you never know whether it is to be inflicted or not, and I think that a secondary punishment could be substituted for it, which would clear it from any difficulties. Why not sentence to civil death? You may call it perpetual imprisonment, under the mark system, with sufficient motive to induce a man to be careful, say 3,000 marks, or 4,000 or 5,000 marks certain, with extra indulgences; you would keep up the spirits in a man almost to an indefinite period of work, and you would rescue the Secretary of State from the fearful responsibility which is now upon him. I think civil death should dissolve all civil ties; a man's children would become fatherless, and his wife a widow, and everything of that sort, and I could suggest arrangements which should extricate you from a great deal of difficulty. I think it is impossible that you can very long retain the punishment of death. An aggravated degree of imprisonment, civil death as it were, is not without its fear, I think; if you sentenced a man to 20,000 or 30,000 marks, it is pretty much the same thing; he would never earn them. I have thought a great deal upon it lately, and I think the administration of civil death would be very beneficial.

3780. Mr. *Monckton Milnes.*] Did I rightly understand you to say, that you considered that the present state of secondary punishments was one of the causes of the increase of crime?—Yes.

3781. Will you shortly explain to us why you think so?—Because all punishments upon minor criminals make them worse and worse from day to day, and progressively as the number of discharged criminals accumulates in the country, the public opinion of the lower classes becomes more and more brutal and ferocious, and by-and-by, when that number is still greater, your difficulties will be so much greater; because the influence of these demoralised prisoners extends very far and wide, and they lower the public opinion of the criminal classes.

3782. Do you think that the operation of the system of tickets of leave, by which the number of discharged prisoners who are thrown upon society is increased, has already produced palpable effects?—I have no special means of knowing. I think the reports of crime are most alarmingly increasing, and the aggravation of crime.

3783. *Chairman.*] You mean the reports which you have read in newspapers?—Yes; I think that at no period in English history was there anything so bad as the last 12 months have shown, both in crimes of violence and crimes of deceit. In all classes of society, and in all grades, the popular opinion, and I believe it is well founded, is, that society is full of deception; it applies to tradesmen in particular.

3784. Mr. *Monckton Milnes.*] In what way do you connect the present system of secondary punishment with the increased demoralisation which you suppose?—Because you demoralise your discharged prisoners; the utmost that a time sentence aims at is, to produce submission; it is but a hairbreadth step from submission to evasion, and from evasion to deceit, of a much broader kind. You turn out these men, many of them educated. That, I think, is another point, namely, that you have directed your efforts in education much more to develope the intellectual than moral principle, and by so doing you make the criminal class of the country more ingenious, and more perfect in artifice of all kinds, and there is but a step to their becoming, when tempted, more violent.

3785. You do not, therefore, think that the many attempts which have been made to improve the prison discipline of this country, by giving it more of a reformatory than a corrective character, have been successful?—I think they have almost made bad worse. The separation system is just trying to manufacture vice; it is nothing else. There is not any one of the attempts which have been made

made which has not aimed at fettering the body instead of influencing the mind; and you never will make a prisoner good for anything until your apparatus applies to mind rather than to body. I observe that it was a question in Colonel Jebb's evidence, whether four years or five would not be best for penal labour. I do not think it is of any importance at all; I do not think that five years, or six, or seven, would be more deterring than two, or three, or four; and the difference is, that you take so much more time out of a man's life to become again a man, to recover him.

3786. You do not think that, in the peculiar moral sense of the criminal population, they calculate with any accuracy the amount of penalty in the sentence?—They calculate hardly anything but the degree of temptation and the chance of escape.

3787. *Chairman.*] The point in which you think the present system defective is, that it has not the assistance of the mark system which you recommend?—Yes.

3788. And you think that if that were engrafted upon our present system it would be efficacious?—I think that all your difficulties would progressively cease; I have no doubt of it whatever. If you give a man a fair opening to recover himself, and to re-enter society, it is scarcely possible to conceive that he will not make a struggle: if you put him at the foot of the ladder, he will climb up.

3789. Mr. *Monckton Milnes.*] But surely you must allow that of late years the tendency of our prison discipline has been to make it rather reformatory than wholly corrective; and if the trial to make it reformatory has only been followed by an increase of crime, can you hope that your system, or any other system, would have a very different consequence?—In the one case you go east, and in the other west. Hitherto all your attempts at improving prison discipline have been in the wrong direction, and it is only by turning short round and walking the other way that you will succeed. You have caused the body to be more or less fettered by separation or silence, or other mechanical means; if you turn and try to gain the mind, which is very easy and very simple, you will have a proportionate effect.

3790. *Chairman.*] Has the fault been in having the wrong apparatus?—Not merely that, but the wrong principle.

3791. How the wrong principle?—By aiming at fettering the body instead of aiming at captivating the soul.

3792. Has it not been a principle of late that a prisoner shall benefit by his conduct during the time that he is undergoing his sentence?—That has been so very arbitrarily carried out.

3793. In your answers are you assuming that that has not been a principle?—I am assuming that it has not intelligibly been a principle. They have not called in the man himself to work out his own reformation; they have tried to do a great deal for him. With regard to the question which Mr. Adderley put to me, whether I thought it was desirable to assist men out of the country, and so forth, that is just another aspect of it. They try to assist the man, and to assist the man in all sorts of ways, but they do not try to give him the capacity of assisting himself.

3794. You admit that the intention is right?—Yes.

3795. If, then, instead of applying their own apparatus and their own means, they had applied those which you suggest, in your opinion the consequences would have been quite the reverse?—If they had taken the apparatus which God Almighty suggests, not which I suggest. I wish to make prison life, under somewhat greater stringency, exactly the apparatus of virtuous society; that virtue shall do a great deal of good, and gain a great deal of advantage, and vice and crime a great deal of deterioration.

3796. If, instead of adopting the course they have adopted, they had adopted the mark system, the consequences would have been the reverse?—Quite. It seems very egotistical, perhaps, to say so, but I most firmly believe it.

*Jovis, 26° die Junii, 1856.*

MEMBERS PRESENT:

| | |
|---|---|
| Sir John Pakington. | Mr. Wickham. |
| Lord Naas. | Mr. John Wynne. |
| Mr. Adderley. | Mr. Massey. |
| Mr. Serjeant O'Brien. | Mr. Monckton Milnes. |

THE RIGHT HON. SIR JOHN S. PAKINGTON, BART., IN THE CHAIR.

Baron *De Katte*, called in; and Examined.

Baron *De Katte.*

26 June 1856.

3797. Mr. *Monckton Milnes.*] I THINK you are attached to the Prussian Legation?—I am.

3798. Have you been engaged in the administration of public business connected with the interior?—Yes; I have been in the Home Department.

3799. Are you, therefore, generally cognizant of matters connected with prison discipline in Prussia?—Yes; only generally; not particularly.

3800. Can you tell us what is the general mode of punishing criminals in Prussia who are convicted of crimes of a secondary nature?—What do you call crimes of a secondary nature?

3801. Crimes next to those incurring capital punishment?—They are confined in large prisons, which are rather a kind of workhouses. They are employed there in making rough materials, such as cloth and carpets. They have to weave there.

3802. How are these articles disposed of?—They are sold by the persons having the administration of the prison.

3803. Are they publicly sold?—They are publicly sold. Everybody can go and buy them.

3804. Is there any complaint on the part of the private manufacturer as to the competition?—There was complaint some years ago, but lately I have not heard of any complaint of that kind.

3805. Are the prisoners employed in the same work to which they have been accustomed before going into the prison?—Yes, generally.

3806. Are these prisons established in large towns, or in other parts of the country?—Rather in small towns. I do not know many prisons which are established in large towns. I only remember one at Berlin. They are generally established in small towns, and it is at a distance from the town.

3807. Are any of your prisoners employed upon public works?—Sometimes they are.

3808. Is the sentence to be employed upon public works a different sentence from that of being imprisoned?—No; it is the same.

3809. A man is therefore to be employed either in prison or on public works, as is found convenient by the Government?—Yes; there is no difference.

3810. Are any of the prisoners let out for other private works?—Sometimes, but it is very rarely the case, unless the manager of the works makes such provisions that there is an impossibility of their escaping.

3811. What kind of public works have been formed by convict labour?—They make high roads; sometimes they are employed to make railways; and they make canals.

3812. Does the good conduct of the prisoner produce any remission of his sentence?—There may be a remission in consequence of his good conduct, but there is no right to it; it is under the Home Department.

3813. Do you believe that it is practically the case?—Yes; it is sometimes the case when they behave well; that depends upon the nature of the crimes which they have committed, more than upon their sentence.

3814. Is it the custom to place a prisoner for a certain time under the surveillance of the police after his sentence has expired?—Yes; that is the custom, and that

that forms part of the sentence. Supposing a man has been condemned to two years' confinement, he is generally sentenced to three years of the surveillance of the police.

3815. Do you know whether that surveillance of the police assists him in procuring employment, or prevents him?—Neither one nor the other; the surveillance of the police consists in knowing what he is doing, where he is living, and how he is employing himself.

3816. Are the convicts with you absorbed into the mass of the population?—Yes, afterwards; at least there are societies which try to make them absorb in the mass of the population.

3817. But do they succeed satisfactorily?—In some cases they succeed.

3818. After the sentence has expired, are there any regulations as to the residence of the prisoner?—No, they cannot change their residence as they like; at least, other communes are not obliged to take them if they have been sentenced for such crimes as theft, or robbery, or forgery.

3819. Is it not the practical effect, that if other communes are not obliged to retain them, they are driven back upon their own native commune?—Yes, they are driven back upon their own native commune.

3820. The general effect, therefore, of that is, that the greater part of the criminals return to the place which they came from?—Yes.

3821. We are to understand that any commune has the power of expelling from its boundaries those persons who have been sentenced for peculiar crimes?—Yes, crimes which are provided for by the law.

3822. Of what nature are those crimes?—I have described them; murder, theft, robbery, or forgery, crimes for which the criminals have been sentenced to what we call the Zuohthaus.

3823. A house of correction?—Yes, it is the severest degree of house of correction.

3824. Is it not considered dangerous for the morals of a place that the old criminals should come back again?—No, it would be the same as in any other place that they went to.

3825. Is it not thought peculiarly dangerous that they should return among their old associates?—No, because the other communes have a great antipathy to receive them within their boundaries.

3826. Is it thought that they are more likely to obtain labour among their own friends than in other places?—I do not think that is thought; but we think it would be wrong to oblige other communes to allow criminals to settle within their boundaries.

3827. It is rather out of respect for the rights and peace of other societies that you adopt that course?—Yes.

3828. Are you aware of any important changes which have lately taken place in your administration of secondary punishment?—I am not aware of any.

3829. Have you anything in the nature of galleys, or galley-slaves?—No.

3830. Are the persons who are employed on public works marked in any particular manner?—Yes; they are marked on the arm, and they have a peculiar dress.

3831. But no chains?—Some have fetters.

3832. Is that for any particular crimes, or for attempted escape?—For attempted escape.

3833. Lord *Naas.*] How are they marked; are they branded?—No; there is a mark on their dress.

3834. They are not marked on the flesh?—No, never; some very dangerous criminals are dressed half in brown and half in grey, but the general dress is in brown.

3835. Mr. *Monckton Milnes.*] Do any large number of your convicts whose sentences have expired emigrate?—No large numbers; some emigrate afterwards, but I do not think that their number is very large.

3836. *Chairman.*] I believe that you have no transportation in Prussia?—No, we have not.

3837. All your criminals, coming within what we call in England the secondary class, that is, all who are in the next stage below capital punishment, are detained within your own dominions?—Yes.

Baron *De Katte.*

26 June 1856.

3838. Are they all sent to large prison establishments?—Yes.

3839. Have you different establishments for different classes of crime?—Yes.

3840. Some of your establishments are intended for the more aggravated cases?—Yes. The establishments which we call Zuohthauses are established for more aggravated cases.

3841. What are the various periods for which your criminals of the graver class (I do not mean the most grave next to murder, but the graver classes of criminals) are sentenced to these prisons?—From 5 to 12 years, sometimes 15, but that is very rarely the case.

3842. Speaking generally, 12 is your maximum?—Yes; from 10 to 12 is the maximum.

3843. Take the case of attacks upon the person of great violence only short of murder, or housebreaking with violence, or forgery, those being what we regard in England as the three graver classes of crime; in those cases would you not impose an imprisonment of more than 12 years?—It can be imposed.

3844. But, practically, what do you do?—It depends on the case, and it depends on the antecedents of the person.

3845. What length of punishment does your law contemplate?—For life.

3846. You have in certain cases imprisonment for life?—Yes.

3847. For what crimes would you impose imprisonment for life?—For murder, for instance, if the man is not executed, and for theft; those are the two crimes for which we impose imprisonment for life.

3848. When your laws impose that sentence of imprisonment for life, is the imprisonment for life always carried out?—Not always; it depends on their conduct. Sometimes the confinement is limited to a certain time; but that is rare.

3849. But sometimes it is carried out for life?—Yes.

3850. Would the condition and treatment of a man sentenced to imprisonment for life be more severe and more penal than that of a man sentenced for 12 years?—I think it would.

3851. Can you tell me in what respects it would vary?—They are put in a kind of dungeon at night; they are fettered at night; they get a kind of fetter round their legs, which is attached to the bed, so that they cannot escape.

3852. You are now speaking of the worst cases?—Yes; of the most aggravated cases; people who are sentenced for murder and for manslaughter.

3853. Will you be kind enough to give me some explanation of what you mean by the word "dungeon"?—They are subterranean prisons.

3854. Subterranean cells?—Subterranean cells.

3855. Are they so constructed as to admit only one prisoner, or do they admit more?—I have never been in them.

3856. Then I understand you to say that you have subterranean cells which are applied at night to the graver classes of crime?—Yes, to the graver classes.

3857. What becomes of those men during the day?—They are employed during the day; there are large apartments, where they have to work.

3858. In what sort of cell would a man imprisoned for a milder offence be confined?—In the ordinary prison.

3859. In an ordinary cell?—In an ordinary cell.

3860. Have you adopted in Prussia what we call in England the separate system, of making men work for a period constantly in a cell by themselves?—Yes, we tried it, but we found that people turned out maniacs.

3861. They could not bear it?—They could not bear it.

3862. For what length of time did you try it?—We tried it for several years; for 10 or 12 years.

3863. For what length of time in each case; how long did you confine any one man separately?—That I cannot say.

3864. Do you mean that the tendency to cause insanity was so great that you abandoned the system?—Yes; it is now on the point of being abandoned.

3865. Now all your imprisonment is what we call in association?—In association.

3866. Both by night and by day?—Yes, I think it is.

3867. I understand you to say that the prisoners are not in separate cells, either by night or by day?—Some very dangerous criminals are separated by day and by night.

3868. But as a rule it is not so?—As a rule they are not.

3869. Have you by your law any sentences of imprisonment for periods between 12 years and life; do you ever sentence for 20 years, for instance?—Yes, we have.

3870. What number of prisoners have you in one establishment usually?—Usually 400 to 500; sometimes more; it depends on the size of the building.

3871. Are any portion of your prisoners employed in outdoor agricultural pursuits?—They have now begun to employ them agriculturally.

3872. That is only a new system?—That is a new system which is tried now; we have not yet had any experience of it.

3873. You are unable to give results?—I am unable to give results.

3874. But speaking of the system to which you have already adverted, of the manufacture of useful articles within the prisons; have you found in Prussia that by those means you are able to make your penal establishments in any considerable degree self-supporting?—Yes.

3875. Can you tell me to what extent they are self-supporting?—I think one-half.

3876. For the light class of cases, the most trivial offences, I suppose you adopt short imprisonments of a few months, do you not?—Yes. We have imprisonments of three months, and two months, and of five months, but such people are never sent to what we call Zuohthauses; they are sent to houses of correction.

3877. They are not sent to the same establishments as the worst description of criminals are?—No.

3878. What is the shortest period for which you send them to these severer gaols?—I think one year is the shortest.

3879. Not under one year?—Not under one year; that is the minimum.

3880. The others are establishments smaller; local establishments?—Yes, local establishments on a smaller scale.

3881. Are the large establishments all in one place, or are they scattered about the country?—They are scattered about the country; every province has a certain number of them.

3882. In the event of a sentence of imprisonment for life, does the system of punishment remain the same throughout; does the treatment of the man continue the same during his whole life, or is it mitigated after a period?—It is mitigated afterwards, according to his behaviour.

3883. You have not adopted, I presume, in Prussia, any system analogous to what we call in England the ticket-of-leave system?—No.

3884. Do you understand what that is?—Yes, I know what it is.

3885. You have not adopted it in Prussia?—No; we have not adopted that system.

3886. But I understand that your prisoners are released, with an understanding that for a period after their release they are under the surveillance of the police?—Yes, they are under the surveillance of the police, but that is made part of the sentence. The law has a provision for it.

3887. How long does that surveillance last?—It depends upon circumstances; it is generally a little more than the time for confinement, and it can be prolonged by the Home Department. In the case of two years' confinement the surveillance is three years.

3888. Mr. *Adderley.*] Have you much capital punishment in Prussia?—Not much; only for murder.

3889. Are there any other kinds of secondary punishment (by which I mean only excluding capital) except various sorts of imprisonment?—No.

3890. Is there much corporal punishment either in prison or out of prison?—Very little. Out of prison there is none now.

3891. Are there many punishments by fines of money?—Yes, for lighter crimes.

3892. Have any evils been found to result from your want of an outlet for discharged prisoners to get out of the country?—Yes. We should like to have an outlet.

3893. Will you state generally the nature of the evils which are experienced by Prussia from the want of an outlet?—They are the evils which have been

Baron *De Katte.*

26 June 1856.

experienced in every other country. People begin sometimes the same life as they have led before, and they commit crimes, especially thefts.

3894. Is there a class of persons in Prussia who are constantly getting back again into prison?—Yes, but I should not call it a class; it is a small number who come back to prison.

3895. Is it supposed in Prussia that there is a class of criminals who are always more or less living in a state of crime?—Yes, there is a class.

3896. Who after discharge are likely to get back again into prison?—Yes.

3897. And they transmit that prison character to their children after them; is that supposed?—Generally we take care of the children; we take the children away from the parents; we put them in other establishments, where they are educated, quite aloof from their parents.

3898. How long has that been the case?—That has been the case for the last 20 years.

3899. Is it supposed that that alteration of treatment, during the last 20 years, has broken up the hereditary crime?—Yes, it has answered very well.

3900. You said that some discharged prisoners emigrate?—Yes.

3901. Does that mean that they emigrate of themselves, or that they are assisted to emigrate?—Some are assisted by the philanthropic societies; they send them to Australia and to America, but they must express a wish of emigrating beforehand.

3902. Are they in any case assisted by the Government?—Never.

3903. Will you state the nature of those philanthropic societies which so assist them?—I am not well acquainted with them; they are societies which have for their object to make criminals lead a better life.

3904. They consist entirely of private individuals?—Yes, supported by private subscription, and under private management.

3905. Are there ladies amongst them?—Yes.

3906. Do ladies form a large part of such societies?—No, I do not think that they form a large part.

3907. Are there some consisting wholly of ladies?—No.

3908. Do these philanthropic societies undertake any portion of the office of visiting prisons?—Yes, they are visiting the prisons constantly.

3909. Is that with both the sanction and the co-operation of Government?—Yes, it is at least with the sanction of the Government; and they are assisted by the officials.

3910. Have they a right to go into any prison?—They have no right, but it is always allowed by the Government, and the Government rather favour it.

3911. Could the governor of a prison refuse to admit them?—I think he could, but I never knew a case of his refusing.

3912. And they more or less undertake the moral care of prisoners during their imprisonment?—Yes, they assist the clergyman of the prison.

3913. In the moral care of the prisoners?—In the moral care of the prisoners.

3914. Do they make it part of their regular business to assist prisoners, when they come out of prison, to get employment?—Yes.

3915. By what means do they do that?—They try to persuade people to take them into their service, or give them something to do, to provide them with some labour.

3916. I presume they would find that difficult in the immediate neighbourhood of the prison?—Yes, it is rather difficult; but we sometimes find people who are kind enough, and philanthropic enough, to take them; at least, to try it.

3917. Is there any communication between the philanthropic societies of the different parts of the kingdom to enable prisoners discharged in one part, say Prussia proper, to get employment in the Rhenish provinces, for instance?—Yes, in the coal mines, where new coal mines are opened, or railways are constructed; for instance, I believe they construct railways on the Russian frontier.

3918. Is it the habit of such societies to move discharged prisoners about to other parts of the country?—I think they do sometimes.

3919. Do you know whether much difficulty is found in getting employment for discharged prisoners?—It is rather difficult.

3920. Still?—Yes.

3921. Is that difficulty diminishing through the influence of these philanthropic societies?—I think it is.

3922. Do these societies give any sort of security for the good conduct of prisoners taken into employment?—The prisoners produce a certificate when they leave the prison, and the societies say that they think the individual will lead another life. I do not think that any particular securities are given.

3923. There is nothing in the nature of a pecuniary guarantee?—No; there is nothing in the nature of a pecuniary security.

3924. Are these societies at all analogous to the *Sociétés de Patronage* in France?—I do not know.

3925. Lord *Naas.*] Does every prisoner who is confined and comes into prison receive education?—Yes; they are instructed in all the common sciences, and they are especially instructed in religion.

3926. Are they generally uneducated when they come into prison?—They are educated according to their situation in life. We pay a great deal of attention to public instruction; everybody learns to read and write and calculate.

3927. Do you know whether the Government receive any complaints from the communes of the conduct of the liberated prisoners after their sentence has expired?—Yes, sometimes they receive complaints.

3928. Are those complaints general?—No, I do not think they are.

3929. Have you ever heard that any dissatisfaction exists among the communes from having the prisoners liberated, and sent back to their old places again?—Yes; they are sometimes dissatisfied with it, but they cannot help it. The communes to which the prisoners before belonged have no power to eject them. They must admit them.

3930. And if the prisoner becomes a pauper, what is done?—If he becomes a pauper he must be admitted all the same.

3931. Have you ever heard the subject of transportation talked about in Prussia?—Yes; we tried to transport our criminals.

3932. Do you think that the Prussian Government would adopt a system of transportation if it were possible?—I think in some cases they would. At the beginning of the last century we tried it. We had a kind of colony in Africa, opposite Madagascar, but it has been given up.

3933. Do you know why it was given up?—We found it rather too expensive, and it did not answer.

3934. Was there an objection of climate?—Yes; and people came back afterwards.

3935. Mr. *Adderley.*] They were not forcibly detained there, but merely enabled to emigrate there?—Yes: it is more than 150 years ago.

3936. *Chairman.*] Am I to understand you that it did not answer as a colony, or that it did not answer for penal purposes?—It did not answer for penal purposes.

3937. Mr. *Massey.*] After a prisoner is discharged from prison, you say that he is kept under surveillance?—Yes, under the surveillance of the police.

3938. Do the police report his conduct to the Minister of the Interior?—They do.

3939. Supposing he commits any offence against the law during the period of surveillance, does the sentence provide for his summary conviction, or return to prison?—He is convicted again.

3940. He is tried again?—Yes, he is tried again and sentenced again, and then the punishment is rather harder than it would be in an ordinary case, if it were the first time of his committing crime.

3941. Is he taken up if he associates with thieves and criminals?—Yes. He is first warned, and afterwards he is put in a kind of lighter prison when he associates with thieves, when there is any justified suspicion of his trying to commit crime again.

3942. Is associating with thieves a specific offence against the laws of Prussia?—I do not think that it is a specific offence, but the police have then the power to put the person in a kind of house of correction.

3943. But it is an offence in the case of a discharged convict?—Yes.

3944. Mr. *Monckton Milnes.*] You stated that the communes which did not choose to retain any of these convicted prisoners had the power of removing them?—Yes.

3945. Is that power frequently exercised?—Yes; I know from my own experience several cases.

Baron *De Katte.*

26 June 1856.

3946. So that, practically, the discharged criminal generally returns to the place that he came from?—Yes, that is the general rule.

3947. Does the central government with you interfere much in the sentences and the discipline of prisoners in the different provinces?—The prisons are altogether under the surveillance of the Government, and the Government names the governor of the prison, and the greater part of the officials. I dare say they are superintended entirely by the Government.

3948. By "the Government" do you mean the central Government of Berlin, or the Government as represented in the capitals of the different provinces?—The Government as it is in the different provinces.

3949. *Chairman.*] Adverting to the system of surveillance of which you have spoken, is it the practice that, when a prisoner is discharged from gaol and returned to his own neighbourhood, information is given to the police of that district in order that they may turn their attention to him?—Yes.

3950. Information is always given?—Always. When they arrive, they first present themselves to the police of the place, what perhaps you may call the sheriff or the mayor of the place, and he makes his report about them to the next superior authority.

3951. Is that information given to the police with any understanding to keep it secret as regards the public generally, so that the fact of the man being a returned convict may not operate to his disadvantage, by preventing his getting honest employment?—It is at least not made public; but generally the people know it.

3952. Is there any regular system with regard to the number of times that the police report upon the conduct and habits of a man so discharged?—I think they report every month to the next superior authority; not to the Minister of the Home Department.

3953. Mr. *Adderley.*] Is there such a philanthropic society as you have alluded to in every large town in Prussia?—There is at least a great number of them; I cannot say whether there is one in every large town.

3954. Wherever there is a large prison?—Yes. Wherever there is a large prison there is generally a philanthropic society.

3955. They rather form themselves in places where those large prisons exist?—Yes.

3956. What name do they assume to themselves; what are they called?—Philanthropic associations.

3957. How long have they existed?—As long as I can remember; 20 or 30 years, and I think before.

3958. Were they much in the same condition formerly as they are now, or have they altered?—They have altered, according to the experience which they have had.

3959. Are they universally allowed?—Yes, they are very much favoured by the Government.

3960. In fact, they are a very important part of the discipline?—Yes.

The Right honourable Lord *Campbell*, Lord Chief Justice of England, attending by permission of the House of Lords, Examined.

Right Hon. Lord *Campbell.*

3961. *Chairman.*] HAS your Lordship turned your attention much to the change in secondary punishments in this country, which was effected by the Act of Parliament which passed in 1853?—Very much.

3962. Will your Lordship be good enough to state to the Committee what is your opinion of the change which was then effected?—I lamented the change. It seems to me that transportation is the best secondary punishment which has ever been invented, being very formidable in anticipation, being comparatively mild in endurance, affording the public the best security against a repetition of the crime, and affording the convict the best, perhaps the only, chance of reformation.

3963. Your Lordship has of course had much experience since that Act passed in 1853, in passing sentences of penal servitude under the new law; is it your opinion, from your experience, that sentences of penal servitude produce less apparent impression upon the prisoners and the public than sentences of transportation formerly did?—I am quite certain that the sentence of transportation made a much deeper impression on the prisoner, and upon the audience, than a sentence of penal servitude now does.

3964. Is it your Lordship's opinion that that difference is caused by the fact that

that penal servitude is a new punishment, which is perhaps not yet thoroughly understood; or is it your Lordship's opinion that, looking to the nature of the two punishments, transportation is the more deterring, and the more penal?—I believe that it is from penal servitude not being well understood;—because those who are sentenced to it consider penal servitude as contra-distinguished from transportation, and believe that they are to remain at home where they may see their friends, and with a hope of speedily returning to their old courses.

3965. Am I to infer from the answer which your Lordship has just given us, that you think the difference in the impression created would be diminished when the sentence of penal servitude came to be more generally understood than it now is?—I think that it will depend upon what the sentence of penal servitude really is, for I to this hour do not myself understand it.

3966. To what portion of that sentence does your Lordship refer when you say that you do not understand it?—I do not understand what is to be done to the convict while he is under sentence of penal servitude. I do not know whether he is to be confined at home, or whether he is to go to Gibraltar, or whether he is to go to Dartmoor, or to Bermuda, or what is to be done with him. I believe that the convicts are equally as ignorant as the judge.

3967. There is no doubt of the truth of the fact to which your Lordship refers, that a sentence of penal servitude may be carried out at Dartmoor, or at Portland, or at Gibraltar, or at Bermuda; is it that uncertainty which your Lordship considers an evil?—I think it is an evil, because there is nothing which presents itself to the convict as that which he is certainly to endure.

3968. Does your Lordship think that the periods of penal servitude are well arranged in the Act of 1853 with reference to the periods of transportation for which they are respectively substituted?—I cannot answer that question, because I cannot compare transportation, which I do pretty well understand, with penal servitude, which I do not understand. If I knew exactly what the convict was to suffer under the sentence of penal servitude, then I should be able to adjust the ratio between transportation and penal servitude; but not knowing that, I cannot do so.

3969. Is your Lordship aware of any difference in the mode of carrying out the sentence of penal servitude, excepting the uncertainty whether it is carried out in England or in either of those two settlements of Bermuda and Gibraltar?—I really am not aware of the details of what is done under the sentence.

3970. Is your Lordship conversant with the working of the system, as carried out at Portland or Dartmoor?—No; I do not know the details, but I always thought that, next to transportation, there might be a secondary punishment upon public works which might be well defined and well understood, and which would operate as a punishment to the guilty, and might be so contrived as not to overburthen the labour market, or come into competition with honest industry.

3971. If your Lordship is not conversant with the mode in which the sentence of penal servitude is carried out, you would regard the difference between that sentence and transportation, rather looking to the deterring nature of the former sentence?—Precisely so.

3972. Your Lordship is, of course, aware that, whatever are the good effects of the sentence of transportation, great practical difficulties have arisen with regard to carrying it out?—I am fully aware of all those difficulties.

3973. But I understand it to be your opinion that, so far as it may be possible hereafter to send prisoners who have been convicted of serious crimes abroad, it would be desirable to do so?—That is my strong opinion; but I feel that, until there is a colony where there is a demand for labour, and where the convicts may be absorbed in the population, and may maintain themselves by honest industry, transportation will not at all answer the purposes for which it is intended.

3974. I presume your Lordship is conversant with the details of the punishment of transportation, as they were carried out during the last few years, before the new Act of 1853 was passed?—Yes.

3975. Does your Lordship think that that was a wise mode of carrying that sentence out, namely, by carrying into effect the more penal parts of the sentence in England, and then sending the prisoner abroad for the latter portion of his term?—I should think that that might be advisable.

3976. You would desire, as far as possible, to continue that mode of punishment?—I think that it might be continued with advantage.

 3977. I understand

Right Hon. Lord *Campbell.*

26 June 1856.

3977. I understand your Lordship to say that you are not prepared to offer any opinion with regard to the particular periods awarded in the new law?—No; when I am passing sentence, I follow the rule laid down by the Legislature, but I am quite incapable of forming any opinion as to its wisdom or its justice.

3978. The propriety of the periods enacted would turn upon those details with which your Lordship is not conversant?—Precisely so.

3979. Has your Lordship given your attention to the question which has been so much discussed of late, of the policy of granting tickets of leave in this country?—If transportation is abolished, and if the convicts cannot be sent out of the country, I do not believe that what is called the ticket-of-leave system is objectionable; but the great clamour against the ticket-of-leave system, as it seems to me, has arisen from the convicts being returned again upon society, —which would still exist if there were no ticket-of-leave system; because unless there be perpetual imprisonment imposed as a sentence, when the term of imprisonment expires the convict must be restored to his liberty.

3980. Assuming the mode of punishment ultimately adopted to be such that the convict, at the end of his sentence, must be set at liberty in this country, I understand your Lordship to be of opinion that it would be wiser to set him at liberty with the check, such as it is, which a ticket of leave affords than without that check?—I think so, and under that system of surveillance which universally prevails on the Continent, and which I believe is a mitigation of the evil, although all the continental lawyers and statesmen with whom I have conversed upon the subject lament exceedingly that they have no penal colonies such as we formerly had.

3981. Mr. *Adderley.*] I observed that, in stating the advantages of transportation, your Lordship alluded to the advantage to the public here and to the convict; you omitted the part relating to the colony?—I think that you cannot, *in invitos*, send the convicts among the colonists.

3982. Without considering their consent or their dissent, which might be unreasonable, is your Lordship of opinion that there are plenty of British colonies which would be benefited by the system?—I should think so, if there were a demand for labour in these new colonies; and we do find from experience, that convicts lead a new life when they get into new regions, and among new associations. I do not believe that their example is likely to corrupt the society of the colony.

3983. Would your Lordship advise Her Majesty to consent to a Canadian Act of Parliament, which would provide for Canadian convicts being sent to the Highlands of Scotland?—If there were a demand for labour there, undoubtedly. Unfortunately, I happen to know that there is an excess of population there, and that there is not employment for those who are willing to be industriously employed; but if there were a demand for labour there, I should see no objection.

3984. Does your Lordship think that this country would generally approve of the principle of the colonies of England sending their worst criminals to this country?—Again I say, if there were a prospect of their being well employed, and becoming industrious citizens, I should make no objection to it; but that is a question for the colonies. The attempts which have been made to force convicts upon the colonies I never approved of.

3985. Your Lordship says that during your experience, which is long and great, the sentence of transportation has been very formidable?—When it is pronounced in open court, I can testify that it makes a very deep impression.

3986. During your Lordship's experience, transportation has meant some three or four wholly different things?—So it has.

3987. To which of those phases of transportation does your Lordship allude? —The parties sentenced do not at all analyse or distinguish; they consider that they are to be banished from their friends and from their country, and it makes a deep impression upon them, and still more upon their relations who are in court. If it is an Irishman who is convicted, as soon as transportation is pronounced as the sentence, there is what is called an Irish howl in court; all the relations and friends begin groaning and lamenting, and I believe that they are expressing what they most sincerely feel.

3988. Your Lordship does not think that any of the changes of transportation have had the slightest influence on the terror of the sentence?—No, I really do not think so.

3989. The

3989. The terror is a sort of *ignotum pro magnifico*?—They look upon it with horror.

3990. Your Lordship thinks that the sentence of transportation since the year 1846, as a mode of getting an outlet for the criminal after his discharge, is just as formidable to the public as the old assignment system which was so condemned by Sir William Molesworth's Committee?—I do not find that there is any difference in the estimation in which it is held, or the apprehension which it creates among the criminals or their friends.

3991. But your Lordship seems to think that the fact of penal servitude being so little understood by the country is the cause of its being a matter of very little terror?—Comparatively.

3992. Then, in fact, both these punishments have a weight in the country in an inverse ratio to their real meaning?—I believe so; to the pain which they actually impose when they are suffered; that is my opinion; it is an argument in favour of the one, and against the other.

3993. Does not your Lordship think that as the habits of the world change, and as locomotion increases, and the distant parts of the world become places well known by the public of England, the real infliction of transportation as a punishment must very materially alter?—I think that the tendency of the progress which you have described is certainly in that direction; but I do not think that as yet it has operated to take away from transportation its terrors.

3994. Does not your Lordship think that the continent of Australia being the part of the world which England chiefly connects with transportation, and being now the region of the gold fields, it has altogether changed the objectionable feeling towards transportation in the country?—I do not perceive that as yet it has had the slightest effect in that respect.

3995. Does your Lordship think that the fact of a distant part of the world having been a sort of *terra incognita*, as it was 50 years ago, and emigration to a distant part of the world being now a kind of boon sought for by the working classes rather than a matter which they regard with apprehension, has not made a difference in the feeling of the country?—I think there is always a difference between a free emigrant and a convict who is sent against his will as a slave.

3996. Is your Lordship aware that the last despatches of Lord Grey upon the subject proposed to send emigrants and transports *pari passu*, one for one?—I am not aware of it.

3997. Is your Lordship aware that that promise has been claimed recently by Western Australia?—I am not.

3998. Your Lordship thinks that there might be a secondary punishment in the nature of public works well defined, which would form a substitute for transportation?—I think that it would be the best substitute, and I think that something more might be done in that line than has yet been accomplished.

3999. So that if transportation be found to be impossible, we may still hope to find some substitute?—I think that that would not be anything like an equivalent, but I think that it would be the best substitute, if it were quite certain of being inflicted with proper firmness, and if it were well understood, if its sufferings were properly known by those who would undergo them.

4000. Your Lordship said that you considered that the system of police surveillance over discharged prisoners somewhat mitigated the evil of these discharged prisoners returning upon this country; does not your Lordship also see a mischief in that surveillance in rather checking their getting employment?—No doubt; but I should think that, upon the whole, if the police behaved with discretion, that surveillance would be advantageous.

4001. Your Lordship's opinion would have very great weight as to the mode of revoking licences under the 11th clause of the Act; do you approve of that mode in which, by a mere warrant upon the information of one man, a man under surveillance can be sent back to prison without any hearing?—It seems very arbitrary; but I should doubt whether in practice he could be allowed to claim a trial before that power is exercised.

4002. Does not your Lordship think that the exercise of that power, unless some very great object is to be gained, is rather dangerous to the liberties of the people?—I should not think that it would operate seriously in that direction.

4003. Your Lordship has no suggestion to make as to modifying the arbitrariness of that mode of treatment?—I really have not.

4004. Mr. *Massey.*] Does your Lordship perceive that any greater effect is

Right Hon. Lord *Campbell.*

26 June 1856.

produced on the mind of the prisoner or upon the audience by pronouncing a sentence of penal servitude, than your Lordship has been in the habit of perceiving from the pronunciation of a sentence of a long term of imprisonment?—Certainly not; they are very much alike.

4005. Is it within your Lordship's general experience that the pronunciation of a sentence of transportation by the judge does produce a visible and unmistakeable effect upon the prisoner, upon his friends, and upon the crowd in court?—It certainly does; I can speak of that as a fact, and not as a mere matter of opinion; it is a fact within my own observation.

4006. Mr. *Monckton Milnes*] Your Lordship appeared to state that some difficulty to you arose from not being able to define in your own mind to what punishment precisely a prisoner sentenced to penal servitude would be subjected; will your Lordship state how that difficulty arises?—Because the manner in which prisoners are treated under sentence of penal servitude, as I have been informed, varies very much.

4007. Does your Lordship believe that the uncertainties of penal servitude are greater than the uncertainties which accompanied the old system of transportation?—Certainly not in practice, because very often the sentence of transportation was not carried into effect; if it was only for seven years it was never carried into effect; the criminal was not sent abroad, I believe; but I believe that that was not generally known to the prisoner who was sentenced, and those persons took it for granted, when a sentence of transportation was passed, that it would be carried into effect.

4008. Would not the objects which your Lordship contemplates with regard to transportation be effected by conveying the prisoner to some foreign part, where he would be placed under penal servitude?—No, not by any means. The object of transportation, in my view of it, cannot be accomplished unless he is sent to some country where there is a demand for his labour, where he can become a useful citizen, and where he may re-establish himself in society. There has been a talk of having penal servitude in one of the Hebrides, or in one of the Falkland Islands, without really colonizing. I do not believe that that would at all produce the effect, because it would be little better than merely keeping the imprisonment with hard labour at home. The persons so dealt with would acquire no new *status*; they could not acquire property; they could not maintain their families respectably. It is stated on good authority, that in the colonies there are now (or there were a year or two ago) 40,000 convicts who had been transported, who were reputably maintaining themselves by their industry. In such a settlement as the Honourable Member represents, not one of the individuals could gain the *status* which is now enjoyed by those 40,000 parties.

4009. But, as far as the deterrent effect of the sentence is concerned, would there be any difference between transportation to Western Australia and transportation to public works at Bermuda or Gibraltar?—I think not; but the reformatory part of it depends entirely upon finding employment as the persons are restored to liberty.

4010. Supposing that it was found impracticable to continue the present system of transportation, would your Lordship recommend that the term at present used should be preserved in our sentences?—Certainly not; it would be a legal fiction.

4011. As at present used, is not the term in fact a legal fiction?—The Government still has the power of transporting, and in cases of great aggravation I myself pronounce sentence of transportation for life, but unless in these cases of great aggravation, I do not resort to the fiction.

4012. We have had it given in evidence that Judges, in pronouncing sentence of transportation, were perfectly aware at the time that transportation would not be carried out; that the prisoner himself was aware of it, that the public were aware of it, and that therefore that sentence had not the certainty and the solemnity of a judicial sentence about it; is it not so?—I do not think that the prisoner is at all aware of it. I am of opinion that the prisoner and the prisoner's friends believe that he will be sent out of the country.

4013. Would your Lordship then recommend that the phrase "transportation" should be continued, even though we are unable to carry out the system further than we can at present?—By no means. I would not be a party to any scheme for trying to delude the public and telling them a falsehood. But till the colonies refused

refused to receive the convicts, and the new system was adopted, the sentence of transportation, in all cases where it was beyond seven years, was actually carried into effect.

4014. Does your Lordship attach great value to the certainty of punishment?—I think so.

4015. Would your Lordship recommend in the case of a sentence of imprisonment, we will say for four years, of which it was understood that one year should be remitted if the prisoner conducted himself well, that that remission should be made part of the sentence?—I do not think it is necessary that it should be made part of the sentence; and I should not say that the sentence there was not a certain sentence, although there were an understood condition that upon good conduct a part of the sentence should be remitted. I do not think that such punishment can be said to be uncertain in the bad sense of the word.

4016. Do you think that you might safely leave it to be understood that good behaviour during prison confinement should carry that remission along with it?—I think so; but unless very cautiously used, it would lead to hypocrisy and deceit.

4017. Mr. *Adderley.*] Is it not the case that the terror of transportation is felt more by those classes who have ties and attachments at home, than by the more vagrant and vagabond class of criminals?—I have not observed that distinction; the effect seems to me almost uniform at the moment when the sentence is pronounced.

4018. *Chairman.*] Your Lordship has been asked a question about the different modes in which the sentence of transportation has been carried out at different periods; I presume that your Lordship is of opinion that these different modes have been little known to the general public, or to the criminal class, or their relatives?—Very little.

4019. And that you are of opinion that the terror of transportation rather arises from that complete separation from home and kindred, which cannot occur in any case of imprisonment at home, whatever it may be called?—I really believe so.

4020. Some of the witnesses before this Committee have regarded transportation as a boon to the well-conducted, and others have spoken of it like your Lordship, as the most deterring sentence which we can pass. I should very much like to ask your Lordship's opinion whether, looking to the extent to which we may possibly retain transportation as part of our system of secondary punishments for the future, you think it desirable that transportation should be regarded as the next punishment in severity to capital punishment, and to constitute a gradation of punishment between death and imprisonment at home?—I should think that it would be very difficult to have an intermediate punishment between death and transportation. I think that you could hardly have transportation as a milder punishment than penal servitude.

4021. I think from your Lordship's answer that you rather misapprehend my question. I do not contemplate any punishment between death and transportation; but I ask your opinion whether you think transportation, so far as it is retained, ought to be regarded as the punishment next in severity to death, and, therefore, to be a gradation between death and imprisonment at home rather than regarded as a mild punishment, or a reward for good conduct?—I think that if the country is to send people abroad as emigrants, and to take care of them, and if you call that transportation, that, instead of being a punishment, it may be a reward.

4022. I mean rather to ask, whether your Lordship would hereafter consider transportation or penal servitude as the second punishment in severity?—That depends entirely upon what penal servitude means. If you will tell me what is to be endured under penal servitude, then I can form an opinion.

4023. And that your Lordship does not seem to be aware of. With regard to the present system of sending convicts to Bermuda and Gibraltar, is it your Lordship's opinion that it would be better to regard that as a separate class of punishment than to regard it, as we now do, as part of the system of penal servitude?—I certainly think so, and would strongly recommend that it should be a specific sentence.

4024. You consider that a sentence to Bermuda or Gibraltar, there to be employed for a certain number of years, should be pronounced as a separate

Right Hon. Lord *Campbell.*

sentence, and would probably be regarded with more apprehension than a sentence to penal servitude within this island?—I so believe.

26 June 1856.

4025. Is there any other statement, with reference to this important subject, which your Lordship would desire to make to this Committee?—I can only say, that I think that it is highly desirable that the Government should use every possible effort to establish colonies to which convicts may be transported; and if that cannot be accomplished, then I think that a specific sentence to be employed upon public works for a given number of years would be the best substitute.

*Thomas Frederick Elliot*, Esq., called in; and further Examined.

*T. F. Elliot*, Esq.

4026. *Chairman.*] SINCE your last examination before this Committee, has any intelligence arrived from Western Australia which you consider to affect your former evidence?—There has been a despatch from the Governor which in one respect would qualify my evidence; I stated when I last had the honour to be before the Committee, that the convicts in Western Australia were supposed upon the whole to have behaved pretty well, and that statement was correct at the time when it was made; but the new Governor has now sent home representations that there have been many re-convictions of offenders in that colony, and that there is a growing dissatisfaction in the community upon the subject. The Secretary of State is very anxious that this despatch should be brought before the Committee, that they may have on record the latest evidence of the Governor's opinion. He accompanies his despatch with a list of a great many convicts to whom he objects on account of their bad conduct whilst in prison. He says that he thinks that if he could have a selected class of convicts, the system might succeed very well in Western Australia; but that if he is to have these hardened and intractable prisoners, he cannot in a distant colony command the services of officers qualified to deal with them.

4027. Mr. *Adderley.*] Will you state the date of that despatch, and who is the Governor?—The Governor is Governor Kennedy, who has lately gone out; the date is the 21st of December.

4028. *Chairman.*] That despatch is from Governor Kennedy?—Yes.

4029. How long had Governor Kennedy been in the colony when that despatch was written?—About five months.

4030. Are there any portions of that despatch which you think it would be desirable to read to the Committee?—There are.

4031. Will you be so good as to read them?—He commences thus: "My attention having been drawn to the considerable number of re-convictions of ticket-of-leave holders and conditional pardon men in this colony, I deem it my duty to address you on the subject, with a view to your considering that which will, I believe, if persevered in, result in the failure of the reformatory system, hitherto so successfully adopted in the Fremantle convict establishment. There is a strong public feeling growing up against the system, in consequence of the increase of crime and repeated re-convictions of the convict class, which is much to be deplored in a community who have hitherto received and treated them on an equal footing with free men; and I am constrained to stake my belief that the growing discontent is not unreasonable." He then encloses a return of re-convictions of convicts: "A perusal of this catalogue of frightful crime will, I think, satisfy any reasonable mind that association with such miscreants is incompatible with the reformation of ordinary criminals. Norfolk Island, or other extra-penal establishment, has been hitherto the destination of this class of incorrigibles." "I do not think that ordinary or average prison officers can be safely entrusted with the management and control of such men as those contained in the return before adverted to." "No reasonable hope of reclamation of the ordinary class of convicts can, in my opinion, be entertained till such characters are removed, not only from communicating with, but out of sight of their fellows." What I am about to read is important: "I do not apprehend that under present circumstances Her Majesty's Government would sanction the additional outlay for an ultra-penal establishment in this colony, nor would I recommend it; but I can see no alternative between such outlay and the signal failure of the present system, if this class of criminals be sent here." "The self-interest which induces the employment of convicts (which must be a preliminary to their becoming self-supporting),

supporting), is by no means so strong as it has been found in other penal colonies; and the support and good opinion of the public in reference to the system once forfeited, a failure must ensue." That is the opinion of the new Governor. I beg to hand in the schedule referred to in the extracts from the Governor's despatch.

*Vide* Appendix.

4032. Does that new information, and the information published in the Blue Book presented this month on convict discipline, throw any general light on the success of the system now in operation in Western Australia?—So far as regards this particular report from the Governor, it was very natural that he should feel embarrassed by those hardened convicts who had reached him; but it is to be observed, that the longest sentenced men have at all times been precisely those who were sure to be transported; there is nothing new in this. The main question suggested, therefore, by Governor Kennedy's despatch is, whether some entirely new plan shall be tried of providing in England for dealing with the most refractory of all our criminals. It is very possible that this question ought to be entertained, and that the difficulty ought to be met at home; but should that happen, I think it would be worth the while of inquirers to ask themselves this question, When all the smaller offenders, and therefore those who are most likely to relapse and to commit repetitions of crime, are not sent out because they are too numerous, or sentenced for too short a time, and when all the most hardened criminals are not sent out because they are too difficult to deal with, what will remain of the punishment of transportation? what will remain to make it worth while to keep up a remote establishment at an enormous cost, in the midst of a hesitating community, which may at any moment throw your penal code into confusion, by saying that it would rather have no more convicts? If these views are adopted, we are only to send to the colony just those prisoners who are most likely to turn out well, if we keep them at home.

4033. I heard early in our evidence, I forget whether from you or not, but we were informed by some witnesses that the inhabitants of Western Australia were disposed to receive even a larger number of convicts than we had been in the habit, for the last few years, of sending to them. Were those despatches conveying that information sent home by Governor Kennedy, or by his predecessor?—By his predecessor.

4034. What was the date of their arrival?—I forget the exact dates, but they are by no means old.

4035. That was the language held by Governor Fitzgerald up to the period of his leaving the colony, I apprehend, was it not?—Very nearly up to the date of his leaving the colony.

4036. Has Governor Kennedy ever made any intimation to the Colonial Office of a similar character?—No.

4037. Is there anything which you desire to add to your former evidence as to the discipline of convicts?—There is one addition which I would ask leave to make: we have received representations from the prison officers at Bermuda of the exceedingly bad effect which is produced by informing the prisoners that no difference will be made, whether their conduct be good or bad, as to the duration of their punishment. The officers represent that it will be almost impossible to maintain order if that rule be adhered to.

4038. Is that a new rule?—It is consequent upon the establishment of the sentence of penal servitude. The sentence of penal servitude is for the present treated as unalterable as to duration, and it has been announced to the convicts that if they behave well some other indulgences will be shown them, but that they are not to look to any abridgment of the term. Under the system of transportation, as the Committee is well aware, large mitigations in point of time were allowed to well-conducted prisoners.

4039. In fact, the prisoners at Bermuda and Gibraltar, before the new Act passed, were prisoners undergoing the earlier stages of a transportation sentence, and therefore they had the same prospect of remission for good conduct as prisoners upon public works here?—Precisely so.

4040. And they are now equally discouraged by the change following on penal servitude?—Pardon me; the men who are at Bermuda under sentence of transportation will still enjoy the abridgment of their term, which they would always have enjoyed if they behave well; but latterly, penal servitude men have

*T. F. Elliot*, Esq.

26 June 1856.

begun to find their way to Bermuda, and now, for the first time, they have in prison there men who are told that whether they behave well or ill it is to make no difference in the duration of their punishment.

4041. I collect from your answer that you think it desirable, as your own opinion, that the ticket-of-leave system should be extended to penal servitude, and, of course, to embrace those at Bermuda and Gibraltar, as well as those at home?—The suggestion which has occurred to my mind, if I may take the liberty to express it, is this, that, in order to attain the certainty which is said to be so important, and yet not to deprive the prisoner of hope in case of good conduct, he should be told when the sentence is passed that he is sentenced for a given term, liable to be abridged by some definite proportion in case of good behaviour.

4042. Has it ever appeared to you, studying, as you have done, this question very much, objectionable that a sentence to be carried out at Bermuda or Gibraltar, and a sentence upon public works at home, should stand upon the same footing?—I presume that the majority of offenders would view punishment at Bermuda or Gibraltar as more severe.

4043. Has anything occurred to your mind since you appeared last before this Committee, with respect to any substitute for transportation which might be adopted?—The system at present is, that first there should be a period of separate confinement, and then a period of labour upon public works. I think that if we are obliged to detain men under very long sentences in this country, we must devise a third stage; it must be some sort of mitigated punishment; and whereas hitherto small islands have been thought of for men who are to be under the strictest discipline, the worst conducted convicts; I think, on the contrary, that an island would be more useful for men to whom you wished to give a qualified liberty, so to speak. You might by that means allow them to range an island, which by Act of Parliament might be closed against the access of the general public.

4044. Have you ever thought of any locality which you would adopt for that purpose?—I believe that some of the Hebrides would answer very well for that purpose. Lundy Island has also been suggested. I think it is not at all wanted for the worst convicts, because those you have under lock and key.

4045. You would apply such a system either to milder cases, or to the lighter stages of severe punishment?—Yes. For example, in imprisonment for life, the man should have the range of a garden, if possible, or some agricultural employment.

4046. Mr. *Adderley*.] The object of your evidence to-day is to show that recent despatches have qualified the information previously received from the colony of Western Australia on the subject of transportation?—Yes.

4047. The previous information received from Governor Fitzgerald, from which you gave your former evidence, stated that the system was working well, and that the colony only wanted more convicts?—I think it will be found stated in some part of the former evidence, that it was the Government which more particularly felt the want of prison labour; it was mentioned in the former evidence, as well as now, that there is some lack of private employment for convicts.

4048. Still it seemed to imply a general satisfaction, on the part of both the Government and the colony, with the system of transportation then going on?—Certainly.

4049. The recent despatches from Governor Kennedy, which seem to contradict to a certain extent that expression of satisfaction, contain a memorial from the colonists of Western Australia?—Yes, I am aware of that.

4050. And it is from the contents of that memorial that your fresh evidence chiefly comes as to the ill-conduct of the convicts, and the dissatisfaction of the colonists?—The fresh evidence which I have tendered consists of a particular despatch from the Governor, never yet printed.

4051. In your recent evidence, do you at all refer to a memorial enclosed with a despatch from Governor Kennedy, dated October 1855?—I have not yet referred to it in my evidence; but I am well acquainted with the memorial, and I know that in it the colonists set forth various matters which they consider grievances.

4052. I suppose that Governor Kennedy having but recently arrived, expressed in both those despatches the feelings of the colonists, not his own?—I presume that

that he intended faithfully to represent what he believed to be the sentiments of the community.

4053. At all events, this new evidence is, if not extracted from, fully borne out by, the memorial from the colonists, to which I have referred?—The memorial from the colonists complains that they do not think they are fairly dealt with in the matter of expenditure; the despatch from the Governor, which I have just read to the Committee, complains of the bad conduct of the convicts.

4054. Do you suppose that between the period of those despatches from Governor Fitzgerald, and the despatch to which you refer from Governor Kennedy, the conduct of the convicts has altered?—Not, perhaps, very materially; but I feel no doubt that as progressively the number of convicts increases without any increase in the number of free people and employers of labour, we shall find a greater proneness to crime.

4055. Will you state in what points the colonists complain of an alteration of the system from the original design and original promise of the English Government?—They complain that they do not receive adequate contributions towards the expense of police and of gaols. They state that they ought to have larger grants of money towards the expense of prosecuting men who arrive in the condition of convicts. They also regret that they have not received as many free emigrants as convicts, which they consider to have been promised to them, and they do not think that sufficient labour has been bestowed upon public works beneficial to the colony. That is the list of their grievances.

4056. Do they not state plainly in that and in other memorials that their one sole view in consenting to the system was the hope of getting a gratuitous supply from England of labourers to construct their public works?—I think I can hardly sum up their statement of what they expected better than in the language employed in the answer from the Secretary of State to their memorial, dated 3d April 1856. He says, "Without dwelling further on particular questions, I readily admit that the introduction of convicts into Western Australia was a matter of mutual convenience; of convenience to this country by affording a favourable field for the reception of offenders sentenced to transportation; of convenience to the colony by the prospect of abundant labour; of the execution of useful public works by the convicts, whose services were not wanted, in providing for immediate objects of their own accommodation and discipline, and by the various legitimate advantages to be derived from a large imperial expenditure in a colony that had hitherto been very deficient."

4057. Referring to the memorial from the colonists of Western Australia, dated October 1855, do you not find that they state that their understanding with this Government was, that if they received our convicts there should be no charge, direct or indirect, connected with or even entailed by the system which should fall upon the colony?—Yes.

4058. They therefore looked to a very large remission of local expenses at the expense of the Imperial Government?—Of such expenses, according to their construction, as were only occasioned by the introduction of convicts.

4059. Does it not appear, from all those despatches, that that in their mind gave a very wide range to the nature of such expenses; did it not include hospitals, gaols, lunatic asylums, military, police, magistracy, and, in fact, a great many other things which I do not recollect at this moment?—It included all those objects; and in every penal colony it will always be a subject of more or less difference, perhaps, between the Imperial and the Colonial Government, what portion of the charges should be assigned to each.

4060. Do they not, referring again to that memorial, state that they consider that subsequent Secretaries of State, ever since that original agreement, have lost sight of the original design?—Yes, that is their opinion.

4061. In fact, as far as obtaining gratuitous labourers from England goes, they like the system; but as far as they have experience of transportation as it is now carried out, they do not like the system?—Governor Kennedy tells us that there is a growing discontent.

4062. Upon what grounds do you suppose that that discontent has gradually increased?—I can have no other information than what I derive from the Governor's despatches.

4063. What do those Governor's despatches, and the enclosures which, in many instances, are memorials of public meetings in the colony, generally indi-

*T. F. Elliot*, Esq.

26 June 1856.

cate as the nature of their growing discontent with the system?—The colonists themselves, in their memorials, complain that this country does not bear enough of the expenses of government. The Governor, in the recent despatch which I have read to-day, adds, that he believes the colonists to be also becoming dissatisfied on account of the bad conduct of the convicts.

4064. Has not the system, as far as the Government itself is concerned, irrespectively of the colony, materially altered with reference to the treatment of convicts in Western Australia since the present system began; in that question I am alluding to the difference between distribution of convicts in service, and concentration of convicts in Government works?—There were a great many depôts in different parts of the colony to promote the dispersion of the convicts among remote settlers; some of these were very extravagant, and the Government desired that they should be abandoned; but I do not think that it was meant to imply a general change of system.

4065. Did not Lord Grey, in establishing the system, lay down the two principles to be that of giving the fullest opportunity of getting employment for the convicts, and that of avoiding concentration?—Yes, he did.

4066. Have not those two main principles, laid down by the originator of the system, been departed from in practice?—No, I think that there is still the greatest anxiety, both to get them employment and to disperse them over the colony. It is a mere detail of administration to consider whether some of the more distant depôts cost more than they are worth.

4067. Has not this Government, over and over again, recently stated that the expenditure of the distributing system was greater than this country would consent to?—That the expense of some of the depôts was greater than this country could be expected to consent to. Abuses were pointed at. It has been said that at some depôts there was, perhaps, but a single considerable employer of labour in the neighbourhood; and yet whenever dissatisfied with his convict servant, or whenever that servant fell ill, such an employer could send him back to the Government to maintain him. It was not thought worth while, for the sake of one, or very few employers, to maintain a public establishment at a heavy cost.

4068. Can you state generally the present cost of convicts in Western Australia, with the numbers? Will you refer to Lord Panmure's despatch of October 1855?—It is stated at about 35 *l.* to 40 *l.* in one of the Governor's despatches. In a despatch from the Secretary of State, of 24th October 1855, it is stated that "a number of convicts little exceeding 2,000 has cost this country upwards of 80,000 *l.* per annum."

4069. Does Lord Panmure express any opinion upon the part of the Government that that expenditure is excessive?—He does.

4070. Are there complaints made from the colony, not only of the alteration of the original design, but that a large proportion of the convicts sent are incapable of earning a livelihood?—That has often been represented.

4071. Does not the Governor also state, that so long as so great a proportion of convicts sent out are incapable of earning a livelihood, the support of these men cannot be charged upon the colony?—Yes, he makes that statement.

4072. Does not the Secretary of State, referring to that despatch, say that a system of sending out criminals to become paupers, incurring a great expenditure in their support as paupers in a distant settlement, is contrary to all reason?—He makes that remark as to sending out free emigrants who cannot get employment.

4073. Is it not also stated in a report from the surgeon of the convict establishment, that the previous penal treatment of these convicts in prisons at home renders them to a great extent unfit for hard labour in the colony?—Yes, I think there is such an expression of opinion. But it is very material to remark that there is a great controversy now prevailing between the two surgeons concerned in the medical treatment of the convicts in Western Australia; a controversy upon medical questions and their diet.

4074. Does it not appear from the experience of that officer to whom I have referred, that any system which deals with criminals by a first portion of the punishment in prison at home, and a subsequent portion of the punishment in transportation to the colonies, is such, that the first portion of the system defeats the last, the statement having been, that the penal treatment in England to a large extent unfits the men for work in the colonies?—That would result from the opinion of this particular officer.

4075. Allow

4075. Allow me to ask you the name of the officer?—Dr. Rennie.

4076. What is the office of the medical man who holds the contrary opinion?—The medical man who holds the contrary opinion is the superior officer, and the head of the department.

4077. What is his name?—Dr. Galbraith; and the attention of the Government having been attracted by these differences between the medical officers, the Secretary of State has now referred to a medical adviser at home, in whom he has confidence, for a report upon the subject.

4078. Is the last advice from the Governor of Western Australia, that convicts there should be retained under stringent discipline?—I know that the general tenor of his opinions is in favour of stringent discipline.

4079. Is not the principle of transportation now recognised by the authorities in England, not that of stringent surveillance and imprisonment in a colony, which they consider might as well be carried on at home?—The view I think is, that so long as a convict can remain in private service, he should be viewed and treated as much as possible like a free man; but that so long as a convict either remains in the prison, or, after having obtained a ticket of leave still cannot procure employment, he is to be regarded as a man who ought to be carefully watched and inspected.

4080. Can you state shortly what is practically the treatment of a convict now on his arrival in Western Australia, generally speaking?—The majority of them arrive with a certain period to pass in a prison, upon public works; and as soon as they have earned, by a proper period of servitude, a claim to a ticket of leave, they receive that ticket, and are left to get private employment. If it is impossible for them to obtain private employment, the Government finds some kind of labour for them, with a very low remuneration indeed, in order to give them no motive for needlessly remaining chargeable to the public.

4081. Can you state how long generally after a convict arrives in Western Australia he is in prison before he gets into service?—That must unavoidably vary very much, both according to the sentences of the men and to the period which they may already have spent in confinement in England; but all the authorities agree in wishing that, if possible, the convict should have a period of from eight to twelve months to spend in prison in Australia.

4082. Can you state at all the proportion of the expense of the Western Australian police which this Government pays for, on consideration of sending convicts there?—£.6,000 a year for police out of about 9,000*l.*: it is about two-thirds.

4083. Have not the colonists of Western Australia expressed an opinion that this Government is bound by its previous promises to send them out free emigrants, in the proportion of 100 per cent. to convicts sent out from here?—Yes.

4084. Has this Government been able at all to carry out that understanding?—I think that this Government has carried out the understanding; there was a little misconception on that subject at one period, but when the accounts came to be completed, it was found, that as many free people had been sent at the public expense as convicts.

4085. Can you state at all whether those were indiscriminately emigrants of any sort, or were they parts of the families of convicts going out?—The families of convicts are included in the computation of free emigrants.

4086. Is there any complaint of the tickets of leave used in the colony being abused, and facilitating escapes?—I do not know that latterly there have been many escapes; there were some at an early period of the penal settlement.

4087. Lord *Naas.*] Does Governor Kennedy, in that despatch to which you have referred, complain of an alteration for the worse in the description of convicts sent out?—He does not notice that point.

4088. Then, if I understand the despatch, it conveys generally very much the same opinions as the memorial of the colonists to which the honourable Member has alluded, which is found in that Blue Book?—No; I am afraid that I have failed in conveying clearly the distinction between the two cases; the colonists complain excessively in the memorial that they do not obtain enough of English money towards the expenses of the management there, and that they have not enjoyed enough benefit of convict labour on public works. The Governor, in his recent despatch, complains of quite a different thing, that he finds the convicts intractable.

4089. The complaint of the Governor amounts to this, that he has no mode of

*T. F. Elliot*, Esq.

26 June 1856.

dealing with the refractory portion of the convicts who are sent out; is not that his complaint?—He says, that in a colony like Western Australia it is impossible to command the services of that class of officers with whom he could hope to deal with such difficult men.

4090. Is not that a complaint which could be remedied by sending out to the colony proper officers, if necessary?—That question leads us to one of the great drawbacks of transportation. As long as the system has existed, we have always found, very naturally, that we could not obtain the services of such good men at the same salaries in very distant places, as at home.

4091. Still it is merely a question of expense whether you can procure them or not?—I suppose that if this country would pay very high salaries indeed, good men might be procured to send to a distance.

4092. The complaints of the colony, as I understand, amount to this, that they object to the costs of the prosecutions which are thrown upon them by this system; and they also object, to a certain extent, to the disproportion of convicts to settlers, in consequence of an insufficient number of free emigrants having been sent out?—The first statement is quite correct, that they object to the costs of prosecution, and they also complain that enough free emigrants have not come.

4093. Are not those two subjects of complaint matters which might also be remedied by the Government?—The Government does not think that either complaint is well-founded.

4094. But if they were well-founded, they could be remedied?—They could.

4095. Do you not think, speaking generally, that it would be quite possible for the Government having a wish to send out a portion of their convicts to Western Australia, to comply with the wishes and the views of the colonists upon the subject?—That question asks my own opinion, and I shall be very glad to offer it; but then, if permitted, I would in the same answer express my opinion generally on this question of success or failure in Western Australia. My decided opinion is, that the system has failed in most of the objects which were looked to as desirable. In all my previous answers I have merely been endeavouring to give the substance, as I was desired to do, of the statements of others. My own opinion is, that the system has failed, for these reasons: the colony has made no progress; the number of free people has not substantially increased; no new settlers have come. I think, therefore, that the colony has not thriven as was hoped; it has gained nothing but the large Government expenditure. The convicts have not prospered as was anticipated, for there is no employment for them; the evidence upon the Table of the Committee shows that they are at a loss how to gain a livelihood. But, thirdly, they have not even been reformed, as we all so much hoped, for the latest despatch from the Governor, which I have to-day submitted, gives evidence that the men begin to conduct themselves very badly. I think it quite natural that there should be a change in this respect. While the number of convicts was small, the free people sufficed to employ them, and they behaved well; but we have poured in fresh convicts who exceed the demand for labour, and they commit crime; therefore, in all three of the advantages which were looked to, I think the experiment has failed—the colony has not gained—the convicts have not prospered—and they have not reformed. If this be the case in Western Australia, where we really had some great advantages, for we had a free community already existing, an admirable climate, and roads ready formed, it will be for the Committee to judge hereafter what the prospects of success would be in an entirely new territory.

4096. Is it not the case that the stagnation of affairs in Western Australia has arisen principally from superior attractions at the other colonies?—I think so; and the same superior attractions would tell more strongly against any new settlement.

4097. Then you think that, in order to make transportation work well, there must always be a proper proportion maintained between the free settlers and the convicts sent out?—Yes; I think that there must be a proper proportion, and that that proportion is not merely to be attained by the Government sending out, by a Parliamentary grant, a number of poor honest labourers, but that there must be a proper proportion of people possessed of capital who can employ the liberated convicts.

4098. *Chairman.*]

4098. *Chairman.*] Is there anything else which you desire to state to the Committee?—It was mentioned at the outset of the inquiry, when last I had the honour to appear before the Committee, that they would be glad of any readily accessible information respecting foreign codes. Five or six years ago the Colonial Office procured, through the Foreign Office, reports from our foreign ministers abroad on the penal codes of several of the principal States of Europe. The whole amount of the documents thus received is very bulky, and would probably be inconvenient to the Committee; but I think it would not be difficult to make selections which would come within a moderate compass, and would show the outlines of the system in each of the great countries. With the capital exception of France itself, from which we did not ask for such information, because it was extant in so many well-known works, such as that of Monsieur Berenger, and in annual reports, drawn up with excellent arrangement, upon the working of the Criminal Law in France, the following countries are those regarding which we can supply information: Belgium, Austria, Prussia, Bavaria, several of the other States of Germany, Russia, Sweden and Norway, Portugal and Tuscany. The information comprises the manner in which they deal with discharged prisoners, and the efforts which they make to reinstate them in society.

4099. The Committee will be very much obliged to you if you will be good enough to have the main and leading points of the penal codes of those countries arranged so as to form in a concise shape a part of the Appendix to our Evidence; you think there will be no difficulty in effecting that object?—I think that it can be effected.

# LIST OF APPENDIX.

## Appendix, No. 1.

Paper delivered in by T. F. Elliot, Esq., 26 June 1856 : PAGE

Summary of Ticket-of-Leave Holders, and of Conditionally Pardoned Men - - 41

Return, showing certain Particulars in relation to Prisoners upon the Convict Establishment (Western Australia), who, by nature of their Crimes, or by reason of their incorrigible Character, are considered by their Superintendent, and are usually regarded at the Home Imperial Prisons, as ineligible for association with others - 42

## Appendix, No. 2.

Official Reports, procured through Her Majesty's Ministers and Envoys Abroad, on the Criminal Codes and Systems of Penal Discipline in the Principal States of Europe:

I. Belgium - - - - - - - - - - - - - - 51

II. Austria - - - - - - - - - - - - - - 52

III. Prussia - - - - - - - - - - - - - - 55

IV. Bavaria - - - - - - - - - - - - - - 55

V. Hanover - - - - - - - - - - - - - - 59

VI. Saxony - - - - - - - - - - - - - - 61

VII. Nassau - - - - - - - - - - - - - - 61

VIII. Baden - - - - - - - - - - - - - - 63

IX. The Hanse Towns - - - - - - - - - - - - 63

X. Wurtemberg - - - - - - - - - - - - - - 65

XI. Sweden - - - - - - - - - - - - - - 70

XII. Norway - - - - - - - - - - - - - - 71

XIII. Portugal - - - - - - - - - - - - - - 72

XIV. Tuscany - - - - - - - - - - - - - - 72

XV. Russia - - - - - - - - - - - - - - 73

# APPENDIX.

## Appendix, No. 1.

PAPER delivered in by *T. F. Elliot*, Esq., 26 June 1856. Appendix, No. 1.

SUMMARY of Ticket-of-Leave Holders, and of Conditionally Pardoned Men.

Summary of Ticket-of-Leave Holders.

| | Numbers. | Expense. £. | s. | d. |
|---|---|---|---|---|
| Number tried in 1851 | 4 | 30 | 17 | 11 |
| „ 1852 | 1 | 4 | 1 | – |
| „ 1853 | 3 | 25 | 19 | 3 |
| „ 1854 | 8 | 74 | 17 | 6 |
| „ 1855 | 9 | 74 | 12 | 5 |
| Totals | 25 | 210 | 8 | 1 |

Summary of Conditionally Pardoned Men.

| | Numbers. | Expense. £. | s. | d. |
|---|---|---|---|---|
| Number tried in 1854 (none before) | 19 | 129 | 18 | – |
| „ 1855 | 31 | 307 | 5 | 5½ |
| Totals | 50 | 437 | 3 | 5½ |
| Ticket-holders, Totals | 25 | 210 | 8 | 1 |
| Totals | 75 | 647 | 11 | 6½ |
| Prisoner in Establishment tried in 1851 | – | 2 | 4 | – |
| „ „ 1855 | – | 4 | 18 | 4 |
| Grand Total £. | – | 654 | 13 | 10½ |

(signed) *A. H. Stone*,
Clerk of the Peace, Western Australia.

Perth, 20 November 1855.

## CONVICT ESTABLISHMENT (WESTERN AUSTRALIA).

RETURN showing certain Particulars in relation to PRISONERS upon this Establishment, who, by nature of their Crimes, or by reason of their incorrigible Character, are considered by the Superintendent, and are usually regarded at the Home Imperial Prisons, as ineligible for association with others.

| Registered Number | NAME. | Ship, and Date of Arrival. | | Nature of Crime. | Private Information received with Prisoner. | Character here. | General Remarks. |
|---|---|---|---|---|---|---|---|
| 3,094 | Robert Wainwright | Ramillies | 6 August 1855 | Robbery with violence, and previous conviction; sentence, "life." | Made a desperate attempt to escape before trial, and seriously injured one of the officers; previously convicted of felony; once indicted, and acquitted; four times summarily convicted. | Class suspended 3 months; and seven days, dark cells, on bread and water. | |
| 3,123 | George Hanks, *alias* "Ram," *alias* Charles Rock; real name Whitaker; an accomplice of 3,514, Geo. Jones. *Vide* under. | Ditto | Ditto | Burglary with violence; sentence, "life." | Convicted of burglary in 1850; sentenced, 10 years' transportation; attempted to escape from Oxford Castle, while waiting for trial; escaped from Dartmoor Government Prison, 1851; attempted to escape from Oxford Castle, 1852; attempted, from Portsmouth, 1854; also from the establishment, Western Australia, September 1854. | Three weeks bread and water; dark cells; 6 months in irons. | |
| 3,126 | William Savage | Ditto | Ditto | Unnatural crime; sentence, "life." | Nil. *Vide* "Crime." | Class suspended 3 months.<br>7 days' bread and water, cells. | |
| 3,168 | Frederic Cox | Ditto | Ditto | *Idem*; sentence, "life" | Prison character, "indifferent;" charged with "arson," in 1849; "stealing a whip," in 1850. | Class suspended 1 month.<br>Class suspended 3 months.<br>Class suspended 1 month.<br>Class suspended 3 months.<br>Bread and water 7 days, cells. | |
| 3,353 | William Simpkin | Stag | 23 May 1855 | Bestiality; 15 years | Nil. *Vide* "Crime" | Bread and water 7 days, cells.<br>Class suspended 3 months. | |
| 3,518 | Evan Hayton | Adelaide | 18 July 1855 | Buggery (*Sic* in Comms.); "life." | Once convicted summarily; once for felony. | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| 3,532 | William Cartnell | Ditto | Ditto | Unnatural crime upon 3,533, G. Simpkin (*see* under); death recorded; commuted to "life." | Nil. *Vide* "Crime." "To be kept separate." | |
| 3,533 | George Simpkin | Ditto | Ditto | *Idem*; (*vide* above) | *Idem*; to be kept separate. | |
| 3,549 | William Moore | Ditto | Ditto | Bestiality; "life" | *Idem*. | |
| 3,552 | Joseph Dougan | Ditto | Ditto | Buggery; "life" | *Idem*. | |
| 3,621 | William Aitkin | Ditto | Ditto | Attempting to commit sodomy; "21 years." | Nil. *Vide* "Crime." | |
| 3,668 | James White | Ditto | Ditto | *Idem*; "21 years" | Nil. *Vide* "Crime." | |
| 3,139 | George Bye | Ramillies | 6 August 1854 | Sheep stealing; "15 years" | Charged in 1838 with bestiality; acquitted; 1844, breach of the peace, one year; 1850, stealing ducks, three months; character "bad." | |
| 3,178 | John Mansell | Ditto | Ditto | Setting fire to a stack of hay; "life." | Theft; three months; also two previous convictions of felony; bears the name of "Jack Sheppard," and is a desperate rascal; was engaged in an attempt to break prison and murder the watchman. | Bread and water 7 days, cells. Class suspended 3 months. |
| 3,185 | Levison Harris | Ditto | Ditto | Rape upon his own daughter; "life." | One month for assault. Has delusions, imagining he is going to be hung, &c., &c. | Probably it would be better to regard this man as deranged. |
| 3,186 | William King | Ditto | Ditto | Arson of a dwelling-house, persons being therein; "life." | 1852, horse stealing, 7 years; attempted to set fire to Wakefield Prison. | Bread and water 7 days, cells. Class reduced 3 months. |
| 3,205 | Samuel Mansell | Ditto | Ditto | Escaping from the convict hulk at Woolwich; "20 years." | 1846, assault, 6 months; 1848, stealing from the person, 10 years; 5 times summarily convicted; bad character on board ship; pugnacious | Class reduced 3 months. Class reduced 3 months. Bread and water 7 days. |

(*continued*)

RETURN showing certain Particulars in relation to Prisoners upon the Convict Establishment, *Western Australia*— continued.

| Registered Number. | NAME. | Ship, and Date of Arrival. | Nature of Crime. | Private Information received with Prisoner. | Character here. | General Remarks. |
|---|---|---|---|---|---|---|
| 3,236 | William Dean - - - | Ramillies - - 7 August 1854 - | Burglary, after previous conviction of felony; also breach of prison rules, 22 years (15/7). | March 1837, 6 months; February 1839, 14 days; June 1839, 2 months; June 1840, 7 years, at Knutsford; January 1850, 12 months; January 1851, 1 month; 2 April 1853, 7 years; character, "very bad;" embarked in cross-irons. | Bread and water 7 days, cells. Class suspended 3 months. Admonished. | |
| 3,238 | Bernard Moran - - | Ditto - - - Ditto - - | Housebreaking, habit and repute, &c.; 14 years. | Tried for an assault; attempted to escape while under examination in the procurator's office; ordered by the directors to be embarked in cross-irons for attempting another escape; character "bad." | Bread and water 7 days, cells. Class reduced 3 months. | |
| 3,241 | William S. Glenrobb - | Ditto - - - Ditto - - | Robbery; 14 years - - | Three summary convictions; of decidedly criminal habits; and although well-behaved in prison, requires to be kept under strict surveillance. | | |
| 3,256 | William Murphy - - | Stag - - 23 May 1855 - | Robbery in connexion with violence, and previous conviction; 15 years. | 23 October 1854, attempted escape; sentenced to forfeit all time up to that date. December 1851, 4 months for robbery; once summarily convicted; temper and disposition "bad;" character "bad." | Class suspended 3 months. Bread and water 7 days, cells. | |
| 3,257 | James Walsh - - - | Ramillies - - 7 August 1854 - | Robbery, and wounding; 15 years. | 23 October 1854, attempted escape; sentenced as Murphy; two summary convictions. | Class suspended 3 months. Bread and water 7 days, cells. | |
| 3,263 | Francis Ward - - | Ditto - - - Ditto - - | Assault and robbery; 14 years. | 15 months to be added to probation for misconduct; malingered at home. | Class suspended 3 months. Bread and water 7 days, cells. Forfeited part of meal. | |

| | | | | | | |
|---|---|---|---|---|---|---|
| 3,295 | William Cooper - - | Stag - - | 23 May 1855 - | Receiving stolen property, and previous conviction; 14 years. | Former convictions proved against him; an artful man, and requires looking after; wife transported. | Bread and water, 7 days cells. Class suspended 3 months. |
| 3,312 | William Welham - - | Ditto - - | - Ditto - - | Larceny; 15 years - - | Previously transported 10 years, housebreaking, 1845; and 1 month house of correction, Colchester; has made two attempts to escape at Springfield Goal. | |
| 3,323 | John Sheen, *alias* John Herbert Sheen, *alias* John Herbert, *alias* Price, *alias* John Price. | Ditto - - | - Ditto - - | Housebreaking, and previous conviction; 15 years. | 15 years; housebreaking, 1843, after previous conviction; 1838, stealing a watch; 6 months. 1840, uttering; 3 months. 1841, convicted of felony. Is a turbulent, conspiring man; an unblushing liar; has twice been in irons for attempting to break prison; is supposed to be an escaped convict; will require a vigilant supervision; relies much on his physical strength. | Bread and water 7 days, cells. Class suspended 3 months. |
| 3,328 | Thomas Damper - - | Ditto - - | - Ditto - - | Burglary; 20 years - | Tried to escape in November 1854; to forfeit all time up to date of attempt. 1848, housebreaking; 4 months. 1852, burglary; 6 months. And once summarily, in 1848. | |
| 3,340 | Henry Ade - - - | Ditto - - | - Ditto - - | Burglary; 15 years. | Tried to effect his escape, and partially succeeded; to forfeit all time to date of attempt (23 May 1854). Also attempted an escape October 1851. Convicted of felony, 1850; 6 months; and June 1851; 3 months. Also 3 summary convictions. Character "bad." | Bread and water 7 days, cells. Class suspended 3 months. |

(*continued*)

RETURN showing certain Particulars in relation to Prisoners upon the Convict Establishment, *Western Australia*—continued.

| Registered Number. | NAME. | Ship, and Date of Arrival. | | Nature of Crime. | Private Information received with Prisoner. | Character here. | General Remarks. |
|---|---|---|---|---|---|---|---|
| 3,355 | Teddy Kenny | Stag | 23 May 1855 | Burglary; 15 years | Conspired with four others to attack the turnkey, when unlocking, to effect their escape; two of the five made a violent attack upon the officer on the 19th August; the officer received several bruises on the head, body, and throat; they threw him down, rifled his pockets, took the keys from him, and threatened to murder him; kept in close confinement from the 19th to the 30th. | Bread and water 7 days, cells.<br>Class suspended 3 months. | |
| 3,366 | Micho Fleming, *alias* Jones | Ditto | Ditto | Stealing from the person; 14 years. | A very bad-tempered and violent prisoner, and likely to give bad advice to other prisoners. July 1843, 7 years; March 1851, 18 months, highway robbery. | Bread and water 7 days, cells.<br>Class suspended 3 months.<br>Bread and water 2 days, cells.<br>Class suspended 1 month.<br>Tobacco stopped.<br>Class suspended 3 months. | |
| 3,370 | William M'Farlane, *alias* Jamieson, Brennan, or Smith. | Ditto | Ditto | Theft, by housebreaking, prison breach, and assault on an officer; 14 years. | Has been a very bad prisoner; not to be trusted; 2 years forfeited when removed from public works; was transported about 14 years ago; is a dangerous character; broke out of Greenock prison before trial. The governor of Paisley prison states, "This man is the most dangerous character I ever had under my charge; it would be well that officers and others who come into contact with him be upon their guard." Glasgow, most dangerous. Perth, incorrigible. Hulks, bad. Portsmouth, very bad. Milbank, bad. Recommended to be sent to Norfolk Island. | | |
| 3,521 | John Arnold, *alias* O'Brien | Adelaide | 18 July 1855 | Burglary; striking and beating a person; "life." | Previous conviction; connexions and disposition "bad"; degraded for breaking his cell; time forfeited for attempting an escape in September 1854. | | |
| 3,525 | William Morley, *alias* Carter, *alias* Riley, *alias* Jones. | Ditto | Ditto | Burglary; "life." | 9 times summarily convicted; twice acquitted; tried to effect his escape; time forfeited December 1854. | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| 3,531 | William Chambers, *alias* Waller, *alias* Davenport. | Ditto - - | Ditto - - | Stealing money from the person; 15 years. | Once as a rogue and vagabond; effected his escape 21 November 1854; recaptured; to forfeit time. | |
| 3,534 | James Cannon - - | Ditto - - | Ditto - - | Assault, with intent to murder; "life." | Often for assaults upon the police; not to be trusted. | |
| 3,550 | Samuel Johnson - - | Ditto - - | Ditto - - | Manslaughter; "life." - | Previous conviction; attempted to break prison, Stafford. | Class suspended 3 months.<br>Bread and water 7 days, cells. |
| 3,611 | William M'Colgan - - | Ditto - - | Ditto - - | Returning from transportation, 12 months' hard labour, and "life." | Twice previously transported for housebreaking; four times summarily convicted for theft; made a violent attack upon a prison officer, with the hope of effecting his escape, and afterwards declaring that he would not hesitate in taking the life of any person who came between him and his purpose. | |
| 3,177 | George Bain - - - | Ramillies - - | August 1854 - | Feloniously setting fire to a dwelling, persons being therein; "life." | Previously conviction; 12 months | Absconded from establishment on the 21st September 1854, and again 14th March 1855; bread and water 3 weeks, cells; six months in irons; 2 months in dark cells, and 100 lashes. |
| 1,469 | George Rouse - - - | W. Jardine - | 2 August 1852 - | Burglary; "life" - - | - - - - - - | Absconded 16 September 1852; also on the 18th October 1852.<br>Sentenced to 50 lashes, and 100 lashes.<br>Three years' hard labour in irons. |
| 1,474 | J. Bishop - - - | Ditto - - | Ditto - - | Unnatural crime; "life" - | - - - - - - | Bread and water 2 days.<br>Bread and water 2 days.<br>Bread and water 1 day.<br>Bread and water 1 day.<br>Class forfeited.<br>Admonished.<br>Bread and water 1 day.<br>Class forfeited.<br>Class forfeited. |

(*continued*)

RETURN showing certain Particulars in relation to Prisoners upon the Convict Establishment, *Western Australia*—continued.

| Registered Number. | NAME. | Ship, and Date of Arrival. | Nature of Crime. | Private Information received with Prisoner. | Character here. | General Remarks. |
|---|---|---|---|---|---|---|
| 1,475 | Thomas Ashmole | W. Jardine - 2 August 1852 | Stealing velvet; 14 years | - - - - - - | Absconded 16 September 1852.<br>Absconded 13 October 1852.<br>Sentenced to 50 lashes.<br>Sentenced to 100 lashes.<br>Committed an aggravated assault on a warder, 9th February 1854; sentenced to 100 lashes, and 28 days bread and water, also to 3 years' hard labour in irons; also to full term of original sentence; a very bad character. | |
| 1,529 | Henry Feast | Dudbrook - 2 February 1853 | Buggery with a she ass; "life." | - - - - - - | Class reduced 1 month.<br>Class reduced 3 months.<br>Class reduced 3 months.<br>Bread and water 3 days, cells. | |
| 1,707 | John Bradmin | - - Colonial prisoner | Larceny, 7 years | It is supposed he contemplated escape from Perth goal; is an associate of burglars; a Parkhurst lad. | Absconded 5 December 1853.<br>Sentence, 100 lashes, and 3 weeks' bread and water, cells.<br>Bread and water 3 days, cells.<br>Bread and water 3 days, cells.<br>Admonished.<br>Tobacco stopped.<br>Bread and water 7 days, cells. | |
| 376 | Michael Drury | - - Reconvicted prisoner | Burglary, 7 years | 20 March 1849, 7 years | Bread and water 28 days, and 36 lashes.<br>Bread and water 1 day, cells.<br>Bread and water 3 days, cells.<br>Bread and water 2 days, in handcuffs.<br>Bread and water 1 day, cells.<br>Bread and water 1 day, cells.<br>Bread and water 3 days, cells.<br>Bread and water 1 day, cells.<br>Class reduced 3 months.<br>Bread and water 1 day, cells.<br>Bread and water 1 day, cells.<br>Bread and water 7 days, cells.<br>Class reduced 3 months.<br>Tobacco stopped. | |

| | | | | | | |
|---|---|---|---|---|---|---|
| 808 | Thomas Jackson - - - | - - Reconvicted prisoner - - | Burglary; 3 years' hard labour; 1 year in irons. | 28 July 1847, 10 years, burglary. | Absconded 9 September 1853.<br>Absconded 5 December 1853.<br>Sentenced to 100 lashes and 5 years' hard labour in irons. | |
| 183 | George Jaran - - - | - - Reconvicted prisoner - - | Burglary; 3 years' hard labour, and 50 lashes. | 26 November 1849, 10 years - | Absconded 1 August 1853. -<br>Sentenced 100 lashes and 3 years' hard labour in irons.<br>Absconded 5 December 1853.<br>Sentenced 100 lashes and 5 years' hard labour in irons.<br>Bread and water 3 days, cells.<br>Bread and water 1 day, cells.<br>Bread and water 2 days, cells.<br>Bread and water, 14 days, cells.<br>Bread and water 1 day. | Conduct latterly very good. |
| 1,216 | Robert Baileymount - - | - - Reconvicted prisoner - - | Housebreaking; 3 years' hard labour in irons. | 19 March 1848, stealing money; 7 years. | Absconded 14 September 1853.<br>Bread and water 28 days, cells.<br>Bread and water 2 days, cells.<br>Time suspended 1 week.<br>Bread and water 2 days, cells.<br>Bread and water 3 days, cells.<br>Bread and water 3 days, cells.<br>Bread and water 2 days, cells.<br>Bread and water 3 days, handcuffs.<br>Admonished.<br>Bread and water 2 days, cells.<br>Bread and water 3 weeks, cells.<br>Bread and water 3 days, cells.<br>Bread and water 3 weeks, cells. | |
| 1,920 | William Lambert - - - | - - Reconvicted prisoner - - | Burglary and illegal possession; 3 years' hard labour, 18 months in irons. | 22 October 1849, 10 years; 29 August 1853, forfeiture of ticket of leave. | Bread and water 7 days, cells.<br>Bread and water 3 days, cells.<br>Admonished.<br>Bread and water 2 days, cells.<br>Bread and water 1 day, cells.<br>Bread and water 3 days, cells.<br>Bread and water 10 days, cells.<br>Admonished.<br>Bread and water 1 day, cells.<br>Bread and water 3 weeks, cells.<br>Bread and water 3 days, cells.<br>Bread and water 1 day, cells.<br>Bread and water 3 days, cells.<br>Bread and water 2 days, cells.<br>Bread and water 2 days, cells.<br>Bread and water 7 days, cells.<br>Bread and water 2 days, cells. | (*continued*) |

RETURN showing certain Particulars in relation to Prisoners upon the Convict Establishment, *Western Australia*--continued.

| Registered Number. | NAME. | Ship, and Date of Arrival. | Nature of Crime. | Private Information received with Prisoner. | Character here. | General Remarks. |
|---|---|---|---|---|---|---|
| 1,088 | James Cornish | Reconvicted prisoner | Burglary and illegal possession; 3 years' hard labour. | 6 January 1851, 10 years, burglary. | Bread and water 3 days, cells.<br>Bread and water 3 days, cells.<br>Bread and water 1 day, cells.<br>Bread and water 1 day, cells.<br>Admonished.<br>Bread and water 3 days, cells.<br>15 March 1855, absconded.<br>Sentenced to 100 lashes and two months' cells.<br>Bread and water. | |
| 1,318 | Edw. Macnamara | Reconvicted prisoner | Burglary and illegal possession; 3 years' hard labour. | 11 April 1851, 10 years, felony | Admonished.<br>Bread and water 3 days, cells.<br>Bread and water 7 days, cells.<br>Bread and water 2 days, cells.<br>Bread and water 1 day, cells.<br>Bread and water 10 days, cells.<br>Bread and water 3 weeks, cells.<br>15 March 1855, absconded.<br>Sentenced 100 lashes and two months' cells. | |
| 1,319 | William Anderson | Reconvicted prisoner | Burglary and illegal possession; 3 years' hard labour. | Felony, and previous conviction, 7 April 1851, 10 years; 1834, 7 years; 1848, 7 years. | Bread and water 3 days, cells.<br>Bread and water 14 days, cells.<br>Bread and water 3 weeks, cells.<br>Confined in cells.<br>Class forfeited.<br>*Idem.*<br>Bread and water 3 days, cells.<br>15 March 1855, absconded.<br>Sentenced to 100 lashes.<br>2 months in cells, and 3 years' hard labour. | |
| 619 | Richard Moss | Reconvicted prisoner | Absconding, having firearms; threatening to shoot a native; 18 months' hard labour. | 2 April 1849, stealing wearing apparel, 7 years; 31 March 1852, three years' hard labour, stealing grapes. | Bread and water 3 days, cells.<br>Bread and water 2 days, cells.<br>Theft, sentenced to 100 lashes.<br>Bread and water 2 days, cells.<br>Bread and water 7 days, cells.<br>Bread and water 3 days, cells. | |
| 2,931 | Edwin Gatehouse | Colonial prisoner | Sodomy; "imprisonment for life." | - - - - - - | Bread and water 1 day. | |

*Thomas H. Dixon*, Superintendent.

Superintendent's Office, Fremantle, 9 October 1855.

*E. J. W. Henderson*, Comptroller-general.

## Appendix, No. 2.



OFFICIAL REPORTS, procured through Her Majesty's Ministers and Envoys Abroad, on the CRIMINAL CODES and Systems of PENAL DISCIPLINE in the Principal States of Europe.


I. Belgium.
II. Austria.
III. Prussia.
IV. Bavaria.
V. Hanover.
VI. Saxony.
VII. Nassau.
VIII. Baden.
IX. The Hanse Towns.
X. Wurtemberg.
XI. Sweden.
XII. Norway.
XIII. Portugal.
XIV. Tuscany.
XV. Russia.


THE points on which information was sought in applying for the following series of papers, may be summed up as follows:—

1. The punishment inflicted in each country for the gravest offences not visited with death.
2. The precautions taken respecting persons guilty of such offences after discharge.
3. The number of such offenders annually sentenced, annually in prison, and the supposed number at large after liberation.
4. The cost of their punishment.
5. The opinion of the Government of the country on the efficacy of the existing system.
6. The opinion of the Government on the want of the punishment of transportation.

Some of the reports include all, and some only part, of these matters, but the portion relating to the same subject will always be marked with the same number, so as to admit of easier reference to all the information on any one of the enumerated topics.

## I.—BELGIUM.



— 1. —

THE punishment of death is usually commuted into that of hard labour for life or for a term of years. The convicts undergo their commuted punishment in the prison of Ghent, which is allotted to convicts sentenced to hard labour. Persons convicted of grave crimes, not punishable with death, are sentenced to hard labour for life, or a term of years, or to separate confinement. Those sentenced to hard labour undergo their punishment, as above stated, in the prison of Ghent, those sentenced to separate confinement in the prison at Vilvorde. A repeated offence involves an increase of penalty. The scale of punishments is determined by the French penal code of 1810, which is still in force in Belgium. This code, however, is at the present time undergoing revision so far as concerns the matter of punishments.

— 2. —

At the expiration of their sentence, persons convicted of crimes are placed, for a period of more or less length, under the surveillance of the police.

— 3. —

The average number of sentences pronounced yearly by the criminal courts is as follows:—

| | |
|---|---|
| To death | 38 |
| To hard labour for life | 38 |
| To hard labour for a term | 105 |
| To separate confinement | 134 |

Appendix, No. 2.

BELGIUM.

The average number of the offenders undergoing their punishments in the convict prisons is as follows:

| | Commuted from Sentences of Death. | Hard Labour for Life. | Hard Labour for a term of Years. | Separate Confinement. | TOTAL. |
|---|---|---|---|---|---|
| Ghent - - - - | 225 | 393 | 552 | 2 | 1,172 |
| Vilvorde - - - | 3 | 24 | 6 | 515 | 548 |
| French Penitentiary at Namur - - - | 20 | 25 | 40 | 42 | 127 |
| Total - - - | 248 | 442 | 598 | 559 | 1,847 |

The number at large after having undergone their punishment cannot be stated with any precision.

— 4. —

The expense of each convict in prison can also not be stated with exactness, but it may be estimated at from 75 to 80 centimes (7½ *d.* to 8 *d.* British) a day.

— 5. —

On the efficiency of the penal system in Belgium no special report has been made; but some interesting information on the subject is contained in a report on prisons, presented to the Chamber on the 3d of December 1844.

— 6. —

Belgium could not adopt the punishment of transportation, for want of colonies to which it could be applied. The absence of this resource may, in some respects, be considered as a disadvantage. Transportation, exercised with discretion, might rid the country of some criminals who are dangerous, and have the effect of diminishing the number of crimes committed by old offenders. It would also open a new career to the criminal who might be penitent and reformed. Regarded in this double point of view, transportation could be employed sometimes for its penal effect, and sometimes as a measure of security. In the last case it would be equivalent to a kind of forced emigration. At all events, it would seem useful, and even necessary, to make the convict undergo a preliminary term of imprisonment before despatching him to his destination. This sort of probation would serve to fix his classification and determine the discipline to which he should be subject at the place of transportation.

AUSTRIA.

## II.—AUSTRIA.

— 1. —

In Austria (except in the kingdom of Hungary, which, with its dependencies, had its particular Legislature,) crimes are regularly punished with imprisonment. The punishment of death is very seldom carried into effect. In the last four years (1845-1848), in the whole empire, only 27 malefactors were put to death; but 330 criminals, who had been capitally convicted, had their sentences commuted by his Imperial Majesty. As yet the cellular system has not been tried in the Austrian houses of correction, and it is a long time before the large houses of correction can be reorganised upon this system; but it has been decided to adopt that system in all the new prisons; so that those who have been committed for trial, and those who have already been condemned to short imprisonments, may be confined separately.

Imprisonment is either "simple" or "severe," and on those two degrees depends the different treatment of the delinquent. Although most of the delinquents, who, by an English court of justice, would be sentenced to transportation, come under the second class, it is as well to mention the treatment of the "simple" prisoners, as it is almost the same, with a slight difference, as that of those condemned to "severe" imprisonment.

The "simple" prisoners are not put in irons, but the others are; and even they are exempt from it, if in delicate health, or on holidays, &c.

Every prisoner has his own place of rest, with a straw mattress, a pillow of straw, sheets, and a woollen blanket.

The diet is not the same in the different houses of correction, but they must receive daily a warm meal and a pound of bread, and on Sundays a little meat.

Spirits and smoking are not allowed; but if the prisoner earns more than usual by his work, he may have a little wine or beer.

Where

Where the arrangements of the prison allow of it, the prisoners are kept to labour, but only in the inside of the prison; labour in public, which was permitted by the law till the year 1848, being abolished.

The prisoner receives some compensation for his labour, and if he works more than is required by the regulations, he receives an addition to it, which is regarded as his own property. One half is kept for him till his release, and the other half the delinquent may use to improve his means of nourishment, which, however, is done without giving the prisoner the money itself.

Every large house of correction is provided with a teacher of religion, or priest, in order to satisfy the religious wants of the prisoner, and if possible to strengthen his morals; in other cases it is also permitted that priests of other persuasions should visit prisoners of their own sect, for the purpose abovementioned.

Books which are not injurious to the morals of the prisoner are allowed to be read. In this respect, particularly since the year 1848, many favourable changes have taken place. For the preservation of health, frequent exercise in the fresh air is enforced. The larger establishments have the necessary space for that purpose; but at the same time, the greatest attention must be paid, to prevent an escape on such occasions, or secret communications.

Communication with persons who are not entitled, by virtue of their office, to visit the prisoners, can only take place when particular permission has been given by the directors of the establishment.

Here the law makes a great difference between those condemned to "simple" and those condemned to "severe" imprisonment, the reason for which is given in the code of civil justice, by which the latter class of prisoners are not allowed to dispose of their own property.

Communication with those condemned to "severe" imprisonment, generally speaking, can never take place, exceptions being only made for important reasons, such as the conference with a trustee, &c. The "simple" prisoners are not subjected to that prohibition; but too frequent conferences must be avoided at all times. Great concessions have lately been made in this respect to political delinquents.

The administration of the houses of correction is entrusted to particular officers of the State, who are also empowered, in different cases, to inflict additional punishments, such as "fasting," "separation," "hard couch," &c., for a short or a long time.

Corporal punishments are abolished.

The administration of the prison is under the jurisdiction of the administrative authorities, who give their orders, which must be punctually obeyed.

From time to time an inspection of the establishments by magistrates takes place, who have to make a report as to their state, as well as of the complaints or petitions made by prisoners, which are decided upon by the judicial and administrative authorities. The above-mentioned details only refer to the larger establishments of correction.

But many delinquents whose term of imprisonment is not for more than six months, are confined in the criminal prisons, because their transfer to the larger houses of correction would entail great expenses and difficulties.

— 2. —

As soon as a prisoner has finished his time of punishment, the administration makes a report of his private circumstances, and of his behaviour during the time of his detention, and delivers it to the head of the police, but the delinquent himself is to be sent to the place where he resided before, and there he is subjected to more or less surveillance by the local authorities.

The question whether the delinquent is capable of earning his daily bread honestly, must have been ascertained during his imprisonment, and he is, if possible, obliged to learn a trade whilst in prison. The last-mentioned observations refer to the treatment of malefactors, which is the principal question made by the English Government; but as they refer to the penal laws affecting those criminals who in England would be sentenced to transportation, we give in conclusion a short list of crimes punished by "severe" imprisonment, as published in the penal code of 3d September 1803, and in later decrees.

(1.) "High treason," if the legal punishment of death is commuted, is to be punished with ten to twenty years at least, and sometimes even with "severe" imprisonment for life.

(2.) "Insurrection and rebellion" are in dangerous cases punishable with five to ten years, the chiefs with ten to twenty years' severe imprisonment; but in less important cases, there are degrees from one to five, and from five to ten years' prison; in particularly dangerous cases, the penal law by which the punishment of death is inflicted must be publicly proclaimed.

(3.) Open acts of violence, opposition to the orders issued by the magistrate, injury done to landed property, malicious damage to the property of others, is in dangerous cases to be punished with five years' "severe" imprisonment; robbery, abduction of minors, slave trade, or the treatment of a man like a slave, likewise serious injury done to railroads, are punishable with ten or even twenty years' "severe" imprisonment.

(4.) Misuse of official power in order to hurt a third person is punishable with from one to five years, and in aggravated cases, with from five to ten years' imprisonment.

(5.) Falsification of public papers which have worth as money, is by law punishable with death, but it is generally changed into from ten to twenty years' "severe" imprisonment.

Appendix, No. 2.

AUSTRIA.

(6.) The same punishment is inflicted upon the makers of false coin, but only in a minor degree.

(7.) Aggravated offences against religion are punishable with from one to five, and from five to ten years' imprisonment.

(8.) Rape is punishable with from five to ten years, and from ten to twenty years; other gross acts of immorality with prison from one to five years.

(9.) Murder is a capital offence, the only exception is the murder of a child by its own mother, at or immediately after its birth, where the capital sentence is commuted, and from ten to twenty years' imprisonment is usually awarded. Unintentional homicide, attended with aggravating circumstances, is punished with from five to ten years' imprisonment.

(10.) Exposure of children is punishable with from five to ten, and from ten to twenty years' imprisonment, if the life of the child is put in danger by it.

(11.) Cutting or maiming, attended with serious consequences, is punishable with from one to five, and even from five to ten years' imprisonment.

(12.) Duelling is, in proportion to its consequences, punishable with from one to five, from five to ten, and from ten to twenty years' imprisonment.

(13.) The most aggravated cases of arson are capital, and then in proportion to the crime, with from one year to imprisonment for life.

(14.) Thefts, embezzlements, and swindling, if causing great loss, or if the culprit be an old offender, are punishable with "severe" prison up to ten years. Official frauds and swindling on a large scale, attended with perjury, are punishable with even twenty years' imprisonment.

(15.) Robbery is punishable with imprisonment for life, but in minor cases the punishment may be reduced to five years, and for dishonest accessories to one year's imprisonment.

(16.) Bigamy is punishable with imprisonment from one to five years, likewise calumnious accusation of false crimes, and in that case, if there are aggravating circumstances, the punishment can be raised to ten years.

(17.) Concealment of aggravated crimes is punishable with imprisonment up to three years; participation in the escape of dangerous malefactors up to five years; and if the latter are guilty of high treason, or forgery of public papers representing money, is punishable with even ten years' imprisonment. Persons recruiting under false pretences for foreign military service, and spies in the Imperial arsenals, are tried by court martial in time of war, and may be punished by death, at other times the punishment is diminished to three years' arrest.

It is to be observed here that the judicial authorities possess a very extensive discretionary power to mitigate the penal laws, and that they make great use of the same, so that the awarded punishments are much less than those ordered by the law. With regard to criminals who have already been convicted, there exists no particular mode of punishment, but it is only regarded as an aggravating circumstance.

— 3. —

With regard to the number of convicts, of those now in the houses of correction, and those who have been liberated, as well as the expenses of the administration, the following return may be given for the various provinces of the Austrian Empire, containing a population of about 18,000,000; viz., Lower and Upper Austria, Salzburg, Bohemia, Moravia, Silesia, Galicia, with the Bukovina. Styria, Carinthia and Carniola, Gorizia, Istria, Trieste, Tyrol, Vorarlberg and Dalmatia. There have been condemned on a yearly average, from 1845 to 1848,

| | | |
|---|---|---|
| To six months' imprisonment or less | 8,756 | culprits. |
| From six months to one year | 2,059 | „ |
| „ one year to five years | 1,550 | „ |
| „ five years to ten years | 238 | „ |
| „ ten years to twenty years | 98 | „ |
| Imprisonment for life | 1 | „ |
| The pain of death | 6 | „ |

In the different houses of correction were confined, taking the same average yearly,

| | | |
|---|---|---|
| At the beginning of the year | 7,234 | persons. |
| Yearly increase | 11,310 | „ |
| Yearly decrease | 10,964 | „ |

At the end of the year the numbers were 7,580 persons.

— 6. —

It is well known that Austria possesses no colonies which she could employ as penal settlements; suggestions have, it is true, been made as to the expediency of having such penal colonies, and various propositions have been made to that effect, but as those propositions have not appeared feasible without great difficulty, and as, on the other hand, the necessity for such establishments has not been clearly proved, the plan has not been adopted.

## III.—PRUSSIA.



— 1. —

According to the Prussian civil code and the criminal code of France, which two are in force in the Rhenish provinces of Prussia, all crimes against person and property which do not involve the penalty of death, are punished by hard labour for life or a term, by separate confinement, or by detention in a fortress. These three punishments have this in common, that all who are condemned to them are employed during the continuance of their sentence upon hard labour proportionate to their strength, but without being necessarily subjected to separate confinement. Those persons sentenced to hard labour or separate confinement are placed in a convict prison, and those sentenced to a detention are placed in one of the State fortresses. It is to be observed, that offenders who are in the military forces at the time of their conviction, instead of receiving an ordinary sentence, are often entered into a disciplinary corps, or sent to labour on the works of some of the fortresses.

— 2. —

The measures of precaution taken by the Government in regard to discharged prisoners consist of placing them under the surveillance of the police, and the exercise of this power has been regulated by a special law, dated the 12th of February 1850.

— 5. —

The question whether the penal system followed in Prussia has been felt to be satisfactory cannot be answered in altogether a favourable manner, and it must be admitted not fully to answer the wishes of Government. Hence statesmen have long been occupied with the design of effecting a reform in the existing system, and especially of establishing separation for all serious offenders.

— 6. —

The introduction of transportation has often been considered by the Government, but the result of their deliberations has been against its adoption. Several reasons have prompted this conclusion. As Prussia has no colonies, the convict would have to be placed at the disposal of some foreign State to undergo his punishment, which would at once be hurtful to the dignity and consideration of the Government, and likewise unjust towards the offender, by placing the execution of his sentence under a wholly different authority from that by which it is pronounced. Moreover, Prussia has not a sufficient navy to provide the necessary means against the return of transported convicts.

---

## IV.—BAVARIA.



— 1. —

The penal system promulgated in the year 1813, which forms the basis of the code of punishments which hitherto has been followed in the provinces of the Kingdom of Bavaria, situated on the side of the Rhine, divides punishments in general into criminal and civil penalties.

The former are divided into four categories; viz.:

(1.) The penalty of death.

(2.) The punishment of chains.

(3.) Imprisonment in—

(*a.*) The penitentiary (zucht-haus).

(*b.*) The house of correction (straf-arbeits-haus).

(4.) Punishments affecting the honour; viz.:

(*a.*) Dismissal from the service.

(*b.*) Incapability of filling honorary or public offices.

(*c.*) The loss of nobility and all dignities, &c.

The two first penalties; viz., the punishments of death and of chains, carried with them civil death from the moment of the condemnation being pronounced, for which reason they were distinguished in the penal code as "capital punishments," and the crimes to which these penalties are applicable, under the general denomination of "capital crimes."

By a law promulgated the 18th November 1849, the provisions of the penal code of 1813 on civil death were abrogated, so that the term "capital punishment" is no longer applicable to the penalty of chains, which, therefore, is rather to be considered, according to the present

Appendix, No. 2.

BAVARIA.

penal code of the Kingdom of Bavaria, as the penalty of imprisonment, standing next in order (of severity) after condemnation to death.

The actual regulations established by law, relative to this punishment and its application, are as follows:

(1.) The same can never be inflicted otherwise than for life.

(2.) The convict continues in possession of his property, with the faculty of acquiring fresh titles; but he is incapacitated from all power of disposal over what belongs to him, as well after death as during his lifetime.

(3.) The State may employ him at will on the public works, in the drainage of marshes and morasses, in fortifications, in breaking stones, &c. As long, however, as there may be no opportunity to employ him on the public works, he is kept within the penitentiary, and employed in the hardest labours of the establishment. His two feet are secured by a long chain, to which a heavy cannon ball is attached. He is clothed in the penitentiary dress, half black, half grey, and his shoes are of wood.

(4.) Women, sickly or weak men, and individuals more than 60 years old, who are condemned to the punishment of chains, are spared the public labour, and are employed in the penitentiary in a manner suitable to their strength. This punishment is inflicted for those crimes which come next in order after those punishable by death, and, as a matter of course, in those cases in which, through the mercy of the King, the condemnation to death is not carried into execution.

Whenever a former convict commits a new crime, it is considered as a ground for increased severity in the measure of his punishment.

The chain convicts are not subjected to any other special rule of discipline, but are under the same regulations as the common penitentiary convicts.

In Bavaria the chain convicts have not hitherto been employed on the public works, as there has existed no particular motive for it, and it would have been attended with practical difficulties; they have therefore been employed within the penitentiaries.

In the Bavarian penal system, the punishment of imprisonment in the penitentiary follows next in order after the punishment of chains; its degree is measured according to its duration, which is either for an unlimited period, when the convict has the hope of pardon after 16 years' incarceration, with certificates of good conduct, or for a limited period, ranging from 8 to 20 years.

The penitentiary convicts can never be employed in labour beyond the precincts of the prison, but always within its walls, and in the work specified in the regulations. In other respects, the carrying into execution, and the consequences of the punishment of penitentiary imprisonment, are now the same as those of the penalty of chains, as civil death has been abolished. The penitentiary convict is, however, attached with a lighter chain, running from one leg to the other.

The following crimes are punished with the penalty of death:

(1.) Treason to the State of the 1st and 2d degree.

(2.) Offences against the royal person of the 1st degree.

(3.) The commission, aiding and abetting of murder.

Homicide, incendiarism, or robbery, accompanied by riot, carried to the worst excess; for which crimes, committed under such circumstances, the promoters and ringleaders are equally liable as the perpetrators.

(4.) Murder.

(5.) The poisoning of fountains and of waters for public sale.

(6.) Repeated infanticide.

(7.) Rape, if the person ravished dies from the effect of the ill-usage.

(8.) The worst degree of robbery.

(9.) The worst degree of incendiarism.

(10.) If an innocent person is condemned to death through the false and perjured testimony of several others.

(11.) Cases subjected to martial law.

The following crimes are punishable by imprisonment with chains:

(1.) The nearest attempt to commit a crime punishable with death; and,

(2.) The first degree of aid to the same.

(3.) Certain cases of incendiarism.

(4.) The promotion and ringleading of riots carried to the worst excess, when persons in authority are violently treated, and pillage is committed.

(5.) Infanticide.

(5.) Infanticide.

(6.) The third degree of robbery.

(7.) The bringing of an innocent person to punishment by means of perjured evidence in a criminal case, if the accused have suffered death.

The punishment of penitentiary imprisonment is awarded to the above-stated crimes in their next degree of gravity, and specifically to—

(1.) Premeditated and serious injury and ill-treatment of the person.

(2.) Robbery, concealment and fraud, if connected with several aggravating circumstances.

(3.) Imitation or forgery of the Royal signature and seal.

(4.) False coining, and forgery of the paper money of the State.

— 2. —

As a measure of security, the liberated penitentiary convicts are, after the completion of their sentences, subjected by law to a special surveillance of the police at their place of abode during five years.

— 3. —

During the last four years the following condemnations have taken place in the seven provinces of the kingdom on this side of the Rhine, containing a population of about 4,000,000:

| | 1846. | 1847. | 1848. | 1849. |
|---|---|---|---|---|
| Death - - - - | 5 | 9 | 12 | 33 |
| Chains - - - - | 7 | 8 | 15 | 23 |
| Penitentiary - - - | 57 | 87 | 72 | 99 |

The public and oral criminal procedure and trial by jury, which came into force on the 1st of January 1849, is, contrasted with the former restricted theory of evidence, the principal cause of the numerous convictions of the last year; in respect to which, however, the injurious effect of the principles propagated in all directions during the late times, by which religion, morality, and respect for the laws are undermined, should not be overlooked.

— 5. —

The Government is at this moment engaged with the preparation of a new criminal code, in which a re-classification of different punishments will be effected, and especially the assimilation of the chain and penitentiary punishments, which, in fact, are already scarcely distinct from each other.

— 6. —

The absence of penal colonies, and the impossibility thereby occasioned of introducing transportation into the penal system, has hitherto not been found to be a disadvantage, as the amount of criminals has never yet reached a very considerable height.

---

REPORT on the BAVARIAN PENAL SYSTEM in respect to Criminals of the worst order.

THE organisation of the Bavarian Penal Establishment is based on the separation of the convicts, according to creeds and sexes, in such manner that special establishments are respectively destined for the reception of male and of female convicts; and also of those professing the Catholic and Protestant faiths, an arrangement, the advantages of which have been confirmed, not only on the higher grounds of religion, morality, and reformation, as well as of improvement, but especially also on economical considerations.

The management of the penal establishment in respect to morals, scientific instruction, discipline and economy, is entrusted to an officer acting as head superintendent (vorstand), to whom are usually subordinated a second officer as accountant, and the requisite officials, consisting of a clergyman, a schoolmaster and a surgeon, the overseers for directing the labour, a head jailor, and the necessary number of turnkeys (sicherheits-aufsehern) under him.

The management of the establishment for Catholic female convicts in Amberg has, in respect to its moral and religious direction, as well as that of its expenditure, and the employment of its inmates, been confided with advantage to the order of Sisters of Charity, without however affecting the disciplinary, and especially the superintending control of the head official of the prison.

The economical direction of the prisons, and the employment of the convicts in every variety of branches, partly for the use of the establishment, such as spinning, needle-work, washing, shoemaking, clothes-making, carpenters' work, baking, smith-work, &c., and partly for the purpose of sale in the production of manufactures (such as woollen and linen wares),

Appendix, No. 2.

BAVARIA.

are now universally under self-conducted management, as the support of the convicts by contract, and the system of hiring out their labour to contractors, not only has not answered the financial purposes of the establishments, but the latter has failed in disciplinary considerations.

The workshops and sleeping places of the convicts are in common, but, according to the category of their punishment, chain, penitentiary, and hard-labour convicts are separated. They are not allowed to converse during the working hours.

The working time begins, in November, December, January, and February, at 6 in the morning, and in the other months at 5, and ends at 8 o'clock in the evening.

From 7 o'clock to ½ past 7 in the morning is, however, allowed for rest and breakfast; from 11 A.M. to 12 for dinner, from 12 to 1 o'clock for recreation in the air and for school education, and finally from 7 to 8 o'clock in the evening for supper.

No work is done on Sundays and festivals, and the convicts, in addition to the fixed hours for their religious exercises, are employed in reading aloud, or in listening to the perusal of useful books, to preserve them from the ill effects of idleness. On fine and dry days they are allowed the enjoyment of the open air in the yards for the space of one hour.

On these days the opening of the cells takes place an hour later, and the closing in the evening an hour earlier, than on working days.

As portion of the above system, the convicts receive likewise elementary school instruction, which has been attended with most satisfactory results, both in respect to their progress and its influence on their amendment.

A daily price is fixed, according to circumstances, on the various labour of the convicts, and is divided into two funds: one forms the disposable fund out of which, according to the regulations of the prison, the different requisites of the convict during incarceration are supplied. The other forms the convict reserve fund, intended for his support on leaving the establishment; and every convict is provided with an official account of the same concerning himself.

Each convict has prescribed to him the quantity of work that he has to deliver daily, and which it is indispensable for him to deliver in a proper state; failing in which, he is obliged to perform the arrears of work left undone, during the recreation hours of the following day, for which he receives no remuneration; and, in the event of continued idleness, he is subjected to punishment.

Those better educated convicts, who are engaged in the instruction of others, and are thereby hindered from performing their own work, are allowed, according to the loss of time, a fair compensation for the same.

That, however, the labour should act as a punishment, the quantity prescribed is always such that, the physical powers and capacity of the convict duly considered, he can only perform it by using exertion.

The diet of the healthy prisoners daily consists of 1¼ lbs. of bread made of one-fourth of wheat and three-fourths of rye-flour; in the morning, porridge; at dinner, a thick soup of pease, and potatoes or lentils, &c.; in the evening, a three-fourth measure of thin soup of meal or potatoes, oatmeal, rice, &c, and twice a week half a pound of meat.

The clothing is simple and healthy, made of linen or half-woollen materials, and woollen stockings, according to the season of the year.

The punishments are—

(*a*) In the first place, deprivation of the relaxations allowed, and afterwards (*b*) the following degrees of gradually increasing severity:

1. Deprivation of soup, or diminution of bread.

2. Solitary imprisonment, with a fixed task of work.

3. Solitary imprisonment, with continued work and decreased food.

4. Solitary imprisonment in a dark cell, without work, and deprivation of the regular diet, from one to fourteen days.

5. Solitary imprisonment in the punishment cell (straff arrest), with deprivation of the regular diet, and chains to the hands and feet for six hours daily during one to twenty days.

6. Separation from the other convicts for as long a period as circumstances may require, and, if necessary, chaining to a fixed ring.

7. Corporal punishment to the extent of 18 stripes with a rod, according to the discretion of the head superintendent, to be applied only in cases of the worst misconduct and stubbornness. This punishment is, however, no longer in usage, and its cessation has not produced any bad effects.

Prior to the discharge of the convicts, who, in cases that require it, are provided with clothes and money for travelling at the expense of the establishment, the authorities of their place of abode are informed of the same, and at the same time of the trade or employment learnt by the liberated convict in the prison; and, in order that work be regularly provided for them, and that their favourable reception at their places of abode should promote that end, a union is established for the purpose of providing for discharged convicts.

The

BAVARIA.

The different undernamed Penitentiaries present the following account of the number of their inmates for one year:—

| PENITENTIARY. | Convicts. | Deaths. | Pardoned. | Discharged at Expiration of Term. |
|---|---|---|---|---|
| Munich - - - - | 481 | 43 | 119 | 24 |
| Kaiserslautern - - | 324 | 16 | 5 | 98 |
| St. George - - - | 195 | 4 | 5 | 7 |
| Lichtenau - - - | 287 | 11 | 76 | 12 |
| Amberg - - - - | 133 | 9 | 32 | 26 |
| Würzburg - - - | 72 | 2 | 12 | 6 |

It is to be observed, however, in the above list, that among the pardoned convicts of the Munich, St. George, Lichtenau, and Amberg Penitentiaries, are also those who, according to the terms of the law, are generally entitled to expect, after the expiration of a period of their sentence, to be pardoned the remainder; and that the escaped convicts are always immediately recaptured.

The great number of convicts in the above lists, proceeds from the circumstance that these six penal establishments not only contain convicts for crimes of the highest order, but also others for lighter offences.

After deduction of the expenses that are covered by the convict labour, the cost incurred by the Government for the support and charge of the convict is, on a yearly average, per head, in—

| | | |
|---|---|---|
| Munich - - - - - - - | 83 | florins. |
| Kaiserslautern - - - - - - | 85 | „ |
| St. George - - - - - - - | 103 | „ |
| Lichtenau - - - - - - | 101 | „ |
| Amberg - - - - - - - | 114 | „ |
| Würzburg - - - - - - - | 84½ | „ |

Ministry of the Interior, Munich,
July 30, 1850.

(signed) *Zwehl.*

## V.—HANOVER.

HANOVER.

The penal system cannot well extend its efficacy beyond the time of detention. Experience has, however, shown, that the best penal institutions obtain their aim very imperfectly when the confined, after being dismissed, are not put under sufficient control, and do not receive the opportunity and means for earning their livelihood in an honest way.

The local magistrates, to whose jurisdiction such dismissed individuals are directed, cannot therefore better execute their vocation than by assisting these individuals with their advice and help, to treat them with indulgence, though with firmness, and to stimulate them to order and activity.

To lead to the fulfilment of these objects, we have considered the following regulations necessary.

— 1. —

Before all it must be understood that here are meant only natives, and such individuals whose removal out of the country cannot be effected, to whom therefore a place of abode must be pointed out. Foreigners are to be sent out of the country under the regulations provided for the purpose.

— 2. —

All Royal and patrimonial criminal courts and police authorities have (at the delivery of an individual into a work or correction-house, who, after dismissal, is to remain in the kingdom) to give notice to the director of such institution as to what district the said individual is to be directed to after undergoing his punishment.

— 3. —

In order, however, that the local magistrates may receive timely information, so that precautionary police measures may be taken, the authorities who conducted the inquiry have at the time of sending the individuals into the penal institutions immediately to furnish the local

Appendix, No. 2.
HANOVER.

magistrates with the result of the inquiry, accompanied by a personal description, and remarks of the nature and duration of the punishment, and such other notices as may be serviceable; in particular cases, even the communication of the documents of inquiry.

— 4. —

Should the sentence of confinement be not above six months, then the above communication is sufficient. Should the confinement, however, be of a longer duration than six months, the directors of the institutions have to inform the local magistrates of the man's home or place of destination (six months, or at least three months, before the dismissal of the individual), concerning his conduct in the correction house, particularising his observed inclinations and abilities, and showing in what way he may be the easiest and best occupied.

— 5. —

In case of pardon to one sentenced for life, similar communications to be made.

— 6. —

The directors of the penal institutions have to direct such individuals as do not remain after dismissal in the places where they have been confined, to their homes or places of destination, and to provide them with a passport for a limited time required to travel to their homes.

— 7. —

As to the manner of the surveillance in respect to individuals dismissed from the penal institutions general rules cannot be well given; the greater part must rather be left to the judicious consideration and circumspection of the local authorities. We consider it, however, proper to make in this respect the following general notifications, which may serve as leading points: 1. The precautionary arrangements for surveillance and care should be prepared beforehand, so that the individual at his arrival may be furnished with the proper directions.

2. Such measures will be taken, according to the reasonable judgment of the magistrate, as may tend to lead the dismissed to a regular use of his personal liberty, and regular mode of life, keeping in view the more or less dangerous inclinations manifested by him. The extent of surveillance is not to be greater than circumstances require. The public safety, however, must always be kept in view.

Afterwards it may be considered for what time the dismissed is to be ordered, perhaps, to report himself at certain times at the police of the circuit or place; for instance, in case of an intended journey from the place or neighbourhood.

Such control can usually cease at the end of a year, if urgent reasons do not require a prolongation.

3. Should the dismissed individual belong to the class who, by their vagabond or dissolute way of life, become a burthen or dangerous to the public, then the proceedings pointed out in our orders of 3d July 1823, and in the Vagrant Regulations, come in force against him.

4. When the dismissed come under the denomination of those who are in want of means for subsistence, although they are fit for labour, then must an endeavour be made to accustom them to a regular course of life, and to prevent them from committing new crimes. This care is also to be bestowed on such individuals fit for labour, or in want of subsistence, as belong more to the class of unfortunate than dangerous criminals, and who have good testimonials from the correctional institution.

5. The continuance of an acquired trade, or other accustomed mode of earning bread, must be brought into play, and an endeavour be made that the men may be employed by private persons, known as honest and orderly; otherwise they must be employed at communal or parish buildings, repairing of roads, planting, digging, clearing, stone quarrying, &c.

6. As it appears, above all, necessary that the discharged prisoners be not deprived of all money, we shall take care that they hereafter be enabled to save a small sum by the surplus value of their labour, to enable them to begin an honest way of living after liberation. The whole of this money, however, is not to be given into their hands, but (abating what is required to defray their travelling expenses) is to be remitted by the directors to the magistrates of their home or place of destination, to defray therefrom the first urgent expenses, viz., fuel, clothing, rent, tools, &c.

7. And as principally the care for the maintenance and reform of the liberated prisoners in need of aid is closely allied to the object of those charitable institutions which support persons unfit for labour, it is desirable to urge upon such individuals or societies as devote their humane exertions to the benefit of the parish (for instance, the clergy) to extend the same to those dismissed from correctional institutions, directing their endeavours to remove or lessen the abhorrence and distrust commonly existing in the public against such individuals, provided the behaviour of such individuals give the hope of their improvement.

— 8. —

— 8. —

In case a prisoner liberated from the penal institutions, and standing under control (surveillance), desires to change the district to which he is directed for another place, on account of any good reasons, the information pointed out in paragraph 3 must be sent to the magistrate of the district to which the man intends to go.

— 9. —

If any man under surveillance does not obey the regulations, or withdraw secretly from the district assigned to him, police punishment is to be inflicted on him, and, when requisite, he may be treated in the same manner as suspicious and incorrigible vagabonds.

## VI.—SAXONY.



### Discharged Prisoners.

The laws of Saxony do not prescribe any fixed measures of precaution as to discharged prisoners: all of them, however, who can show evidence of reform, are sent back to their native place; and unless some other district should voluntarily receive them, they cannot quit their domicile until they have earned in it a certificate of good conduct for one whole year. After they have gained such a certificate, no district is at liberty to refuse them admission. The police of their native place is warned beforehand of their approaching liberation, with orders to exercise a surveillance over them.

## VII.—NASSAU.



— 1. —

The following are the punishments inflicted for every crime and offence, with the exception of those punishable, under the martial law, with death:—

1. Imprisonment for life.

2. Imprisonment in the house of discipline for a definite period, not exceeding 18 years, nor less than two.

3. Removal from service. (*See* page 54).

4. Imprisonment in the house of correction, not exceeding 10 years, nor less than two months.

5. Imprisonment in a fortress, in certain cases mentioned in the Civil Code, Tit. 33.

6. Dismissal from service. (*See* page 55).

7. Deprivation of certain municipal, political, and family rights, so far as the same is not incident, as a legal consequence, to other punishments.

8. Deprivation of public rights, or of some public and independent profession or business, either permanently or for a certain period, not exceeding five years, nor less than six weeks.

6. Suspension from service and pay, not less than seven months, nor more than one year.

10. Imprisonment in a gaol for not more than four weeks.

11. Fines, not less than one florin, nor exceeding 90 florins, except in certain cases, where a higher fine is imposed.

12. Confiscation of property.

13. Judicial reprimand.

When fines cannot be paid, imprisonment and work are substituted, viz. 24 hours' imprisonment, in addition to two days' work for every florin of the fine imposed.

A prisoner may be originally sentenced to imprisonment in either house of punishment, in combination with certain disciplinary punishments mentioned in pages 23 and 47. Imprisonment for life is never accompanied with any other punishment.

The length of time for which such augmentations of punishment may be originally decreed, must never exceed half of the term of the sentence in the house of discipline, and one-third in the house of correction, and may, under no circumstances, exceed, in the whole, one year.

When any one of the disciplinary punishments has been inflicted, it must not be repeated until an interval equal to the duration of such disciplinary punishment has elapsed, and confinement in a dark cell, until an interval of the three weeks from the last infliction. Such punishments are never inflicted after the expiration of the first year of the sentence, and during the second and following years, oftener than four times a year, and after the fifth year, not oftener than once a year.

Appendix, No. 2.

NASSAU.

The legal consequences of imprisonment in the house of discipline are—

1. Loss of office, whether at Court, in the State, or community at large, and incapacity of again filling the same, or any of them.

2. Loss of orders, marks of distinction, and title.

3. The Court (Judicial) may also decree loss of the retiring pension.

Those incident to imprisonment in the house of correction, are loss of office, whether a Court, in the State, or in the community at large, and incapacity from again filling them.

The Court (Judicial) has also power to decree loss of the retiring pension. Imprisonment in the house of correction, for less than one year, involves suspension from service and pay during the continuance of the punishment.

Removal from service involves loss of orders, marks of distinction, and all office, whether Court, State, or other, with all rights, stipends, and titles, also of the retiring pension, and all claims in respect of the same, and the right of advocating, and, moreover, incapacity of ever holding any office again.

Dismissal from service involves loss of office, pay, pensions, &c., but does not incapacitate the offender for re-appointment, but which must never take place before the expiration of three years.

Suspension from service and pay relates only to the particular office or offices mentioned in the sentence.

— 2. —

Dangerous convicts are placed, after their liberation, under the surveillance of the police for not less than one, nor more than five years.

This surveillance consists in—

1. The superior police authorities are empowered to direct—

That the individual under their surveillance do not quit his domicile, or the limits assigned him, after nightfall, without permission from the police.

That such individual do not remain in any place, if his presence there seems dangerous.

2. The judicial and police authorities may at any time visit the domicile of such individual.

The breach of such orders is punished with imprisonment.

---

## Of the Society for the Care and Superintendence of Individuals discharged from the Houses of Correction and Discipline, and also from the Lunatic Asylum.

From the Report of this Society, dated the 20th of September 1845, the following particulars are obtained.

Since the year 1829 this society has had under its protection 81 individuals dismissed from the lunatic asylum, out of which 12 have been provided for as master workmen, 3 as apprentices, and 23 as domestic servants. The number of convicts liberated from the house of discipline, who have derived benefit from this society since the above-mentioned period, is seven, who have been entirely reclaimed.

But the most numerous of its protégés were those discharged from the house of correction.

Of the 446 individuals upon whom this society has operated, 41 have been provided for as master workmen, 101 as apprentices, 130 as domestic servants, and 174 have received assistance in their own homes in money, clothes, and work tools. The labours of the society were attended with a successful result in the case of 76 mechanics and 67 domestic servants, a result which was not too dearly purchased at an expenditure of 14,887 *fl.* 44 *kr.* For the lunatics were spent 1,348 *fl.* 53 *kr.*; for prisoners from the house of discipline 10 *fl.* 5 *kr.*; for those from the house of correction 13,528 *fl.* 46 *kr.*

In the year 1845, up to the date of the report, 146 convicts from the house of correction were provided for at an expense of 3,202 *fl.* 20 *kr.*, and 16 discharged lunatics at 222 *fl.* 53 *kr.*

The most considerable item of expenditure was for the clothing of convicts dismissed from the house of correction, being 2,060 *fl.* 55 *kr.* Loans were made to liberated convicts to the amount of 714 *fl.* 40 *kr*: 122 *fl.* 25 *kr.* were spent in work implements; 66 *fl.* 29 *kr.* in medicine and medical attendance; for the relief of particular individuals 40 *fl.* 30 *kr.*; and for travelling expenses 196 *fl.* 21 *kr.*

Twenty-two protégés of the society were deprived of its benefits on account of their bad conduct, and 16 quitted its protection of their own accord; 88 continued to behave well, and upon the remaining 19 the objects of the society have been fully accomplished.

Those who again return to their former evil course of life can seldom be induced to quit it, much less can they be improved.

The society is most successful in reclaiming the young, and those more especially whom it apprentices to honest trades, and for whom conscientious masters are found.

## VIII.—BADEN.



### Police—Surveillance of Discharged Convicts.

Extract from the Penal Code of the Grand Duchy of Baden.

§ 25. Superintendence of the Police.

The native who is condemned to imprisonment in a house of correction, is at the same time, as far as public safety seems to be endangered by him, sentenced to be placed under the superintendence of the police.

§ 26. Duration of it.

Superintendence by the police cannot be awarded for less than one year, and not longer than for five years.

§ 27. Effects.

The effects of being placed under the superintendence of the police are the following:—

1. The person placed under such superintendence may not leave his native place, or any other domicile, which, with the permission of the police, he may have chosen, during the night, without being allowed to do so by the mayor, and not for eight days without leave of the police authorities.
2. The judicial and police authorities have the power to search his house at any time.

§ 28. Offending against the Superintendence of the Police.

If the person placed under the superintendence of the police leaves his domicile, or place of residence, without permission, he is, at the request of the police authorities, punished with three months' close confinement.

§ 29. Removal of the Superintendence of the Police.

The person placed under the superintendence of the police is freed from it for the time to which he has been sentenced, by giving bail for a sum to be fixed by the judge.

§ 30.

The bail is forfeited when the person placed under superintendence of the police commits a new crime, which is punishable with imprisonment in a house of correction, and such crime has been committed within the time for which bail has been accepted.

§ 31. Partial Forfeiture.

If the new crime punishable with imprisonment in a house of correction is less than the first, the bail can be declared in part forfeited in proportion to the crime.

§ 32. Employment of the Forfeiture.

The bail forfeited according to §§ 30 and 31 is to be paid to the treasury, deducting the indemnification to be made to the party offended against, if the author of the offence is not able to furnish that sum.

---

## IX.—THE HANSE TOWNS.



### Hamburgh.

— 1. —

The longest term of punishment, by depriving a criminal of his liberty, is 25 years, and it is suffered by the worst sort of criminals in a house of correction, and by the better sort in a penal workhouse: trivial offences are punished with simple imprisonment, augmented in certain cases by restricting in various degrees the diet to bread and water, and also by solitary confinement.

In the house of correction and penal workhouses the prisoners are employed in various kinds of work, separated in divisions, of such a nature, that the worse are divided from the better, and the old from the young. In certain cases, and in offences against the discipline of the prison, the punishment of solitary confinement is added to the others.

The diet is plain, but nourishing; the state of the prisoner's health usually good; wine, brandy, tobacco for smoking, are universally prohibited.

Appendix, No. 2.

THE HANSE TOWNS.

— 2. —

A private society is established, in order to facilitate the liberation of prisoners, and to provide against their relapsing into error: dangerous criminals are, moreover, placed under the surveillance of the police.

LUBECK.

— 1. —

THE punishment inflicted on criminals usually sentenced to transportation in England consists of hard labour in the house of correction, according to certain rules subsisting in that establishment.

Every Sunday and holiday the convicts attend Divine service. A regularly appointed chaplain attends to their religious wants.

— 2. —

As to the precautionary measures taken with regard to the re-entry of criminals into society, care is taken to facilitate it by delivering to them the money they have earned by extra work in their leisure hours, sometimes by taking steps to render their means of subsistence secure. A private society has been formed for co-operating with the authorities in this particular.

— 6. —

There being no facilities for transportation, its merits have not been discussed.

BREMEN.

— 1. —

CAPITAL punishment, if it be not wholly abolished, is only inflicted in cases of premeditated homicide.

The question of its legality, or illegality, is of little importance, inasmuch as during a period of more than 60 years sentence of capital punishment has been but once pronounced and executed, and then upon a woman who poisoned her father, husband, and children.

Every other offence against the person and property is punished by imprisonment, either in a jail or in a house of correction, which differ from each other in this respect, the former is inflicted upon trivial, and the latter upon grave offenders, or in pursuance of a threat to that effect upon a former occasion: this latter also involves loss of civil honour and rights, but the former does not. Although the punishment of imprisonment for life has not been abrogated, nevertheless, during the last 26 years, no longer term than 15 years has been inflicted.

The use of fetters and irons, if not formally abolished, has at least been discontinued for many years. The disciplinary punishment of the house of correction consists solely of confinement. From time immemorial a so-called workhouse has been united to the house of correction, in which are confined for longer or shorter periods incorrigible drunkards, beggars, vagabonds, the houseless, and tramps; moreover, for such incorrigible subjects a peculiar workhouse has been formed, and those only are placed in the other workhouse who have been repeatedly placed in this, and dismissed from it unreformed, and have taken to their former ways.

The punishment as well of the workhouse as of ordinary imprisonment does not render the criminal infamous.

The punishment of imprisonment is inflicted in the so-called house of detention, in which also the accused are kept in custody pending an inquiry so far as it is necessary to the purpose of such inquiry.

The same punishment attaches to criminals who relapse into the commission of their former crimes as they were formerly sentenced to, in such a manner that offences punishable in the first instance in a jail, when repeated are punished in a house of correction, and those punishable in the first instance in a house of correction, in case of their repetition a prolongation of the same description of punishment is inflicted.

— 2. —

No regulations have been made with regard to placing criminals under restraint after their liberation, nor are they necessary, as such restriction may at any time be decreed by the sentence of a court of justice. There is, nevertheless, a private society for the superintendence and care of liberated convicts, which can, however, render but little assistance, on account of its limited means, in preventing a relapse into former crimes, which is by no means rare in the case of individuals who have been neglected in their youth.

— 6. —

The question of transportation to a penal colony has never yet been agitated here, nor does there seem any necessity for it.

## X.—WURTEMBERG.

— 2. —

### Superintendence of Criminals after their Liberation from Prison.

When the authorities of the district in which the prisoner's domicile is situate receive notice as to his approaching release and capabilities for work, they are bound to provide for at least his temporary employment, and to make every arrangement consistent with that object; and for this purpose the extra wages (if any) which the prisoner has earned whilst in prison, or any other property that he may possess, is to be sent by the executive of the prison to the said authorities.

If the prisoner departs from the route laid down in his certificate of liberation, he renders himself liable to be treated as a vagabond.

The authorities of the district in which the prisoner's domicile is situate must advise the executive of the prison of his arrival, and not till then is his name removed from the prison roll; but when he does arrive, the police regulations are put in force for his surveillance.

The liberated convict need not be sent home if he can mention some other place, to the satisfaction of the prison authorities, where he will be able to obtain a livelihood, and in that case they must be informed of his arrival in that place. Nevertheless, the authorities of the district in which the released convict's domicile is situate must be informed of it, and the prison executive must satisfy itself of his arrival in the place of his settlement.

Those released convicts for whom employment is found by the society for providing for such persons, must be particularly informed as to who the district manager of their new place of destination is, and this last-mentioned person is charged with the duty of bringing them before the master and the district clergyman, before whom his certificate of discharge is laid, in order to take proper measures for his superintendence and moral and religious care. Notice is then to be given to the district assistant society of his entrance, and of the amount of the savings which have been delivered to the district authorities to his account by the executive of the prison, in order that they may be laid out to the best advantage by the assistant society, with the advice of the authorities of the district.

Prisoners who have committed an offence punishable by confinement, or have been guilty of repeated vagrancy, if the sentence does not order them to be placed after their liberation under the especial surveillance of the police of the district in which the prison is situated, must be conveyed on their release from prison to their respective homes, in order to put in force the further police regulations against them. In like manner foreign pauper prisoners, after their liberation, must be conveyed to the frontier, and not till then is their property, viz., the savings they have made in prison, delivered to them.

### Confinement to the Domicile.

One of the principal means adopted for the moral and social reformation of liberated convicts is the confining them to certain prescribed limits.

This is accomplished by the local police with the assistance of any trustworthy persons, and particularly of the district clergy and members of the society for the care of liberated convicts.

The persons so placed under restraint are summoned once a week before the inspector of the district on some day not previously fixed, and he interrogates them as to their circumstances, employment, &c., and reports accordingly to the court of the district. Sometimes an inhabitant of the district takes upon himself the duty of superintending one of the persons so restricted, and he reports his conduct to the inspector once a fortnight, and the latter to the court of the province every quarter of a year.

Every person under such restraint, if he is in receipt of assistance from the public purse, must use his best endeavours to find employment, and if he cannot succeed, he may be compelled to accept such as the inspector finds for him.

Particular care is taken that their children attend the public schools, and if they are absent from them without sufficient reason, the schoolmaster has to inform the inspector, lest the cause of their absence should be the departure of the parents from the limits prescribed, or any other infringement of the police regulations.

If a person under restraint quits the locality to which he is restricted, the proper authorities are informed of it by the inspector, and the necessary means are taken to bring them back.

A list and description of all the persons under restraint in the district is kept at each police office, together with an account of the duration of the sentence, the limits prescribed, and the nature of their employment, copies of which are sent to the chief and all the neighbouring offices.

Such persons are allowed to quit the limits prescribed, on obtaining permission from the inspector if for any period not exceeding a week, and if exceeding that time, from the district court.

This permission is freely granted to them if they have a reasonable prospect of obtaining employment in any other place; their previous conduct is also taken into consideration; but if it is merely for the purpose of seeking employment, permission is only granted under very special circumstances.

If permission is given them, they are furnished with a certificate, containing the date, the time allowed them, the object of their journey, and a particular description of their persons.

This they must produce to the police authorities of every place in which they stop for the night, and to those of the place where their journey ends, who examine and countersign it.

Previous notice is given to the police authorities of the districts through which they will pass, and to those of the last place to which they are going.

Wherever they stop, their conduct is watched by the district inspector.

If they intend to remain longer than a week in any place, they must give notice of their intention to the district inspector, who can then ascertain whether any impediment exist to their so doing, and if none, the surveillance is carried out in their new place of residence.

When they return to the place of their domicile, they must deliver up their certificate to the authorities from whom they received it, and by these means it is ascertained whether any infraction of the regulations has taken place, that, if so, a proper punishment may be awarded.

If they do not return at the appointed time, or if they do not arrive at the respective places to which they had permission to go, the proper measures are taken for their recapture, or if any of them are discovered travelling about with a certificate of permission that has expired, or when any irregularity is apparent on it, they may be detained by the competent authorities.

The rural police are always on the alert to detect any such persons, and to inspect their certificates, and, if they observe anything wrong, to conduct them before the proper tribunal.

Every facility is afforded for conveying, without expense to the public, persons under such restraint to any places where employment can be obtained for them, and certificates of permission are granted to them for this purpose as long as the authorities of the place to which they are sent are willing to receive them. In cases where opposition is made, or where the person himself under such restraint makes any objection, the governments of the two provinces concerned decide the question.

If the persons under such restraint conduct themselves with uniform propriety, the limits to which they are confined may be enlarged, or the restraint may be removed altogether.

Liberated convicts are also placed simply under the surveillance of the police, which differs from the before-mentioned restraint in this particular, viz., they are permitted to go where they please during the day, but are compelled to pass the night at a certain specified place, otherwise they are subject to similar restrictions as to obtaining a certificate of permission when they wish to leave their domicile, &c.

---

THE Statutes of the Würtemberg Society for providing for Liberated Convicts.

I.—OBJECT OF THE SOCIETY.

1. THE object of this voluntary society is the reformation of the character of liberated convicts.

2. Since employment suited to this purpose, and religious and secular instruction, are provided in the penal establishments in Würtemberg, and the moral reformation of the prisoners is attempted in them, the society bases its efforts upon the results produced in the penal establishments; and the operation of the society commences where that of the State ends, namely, at the return of the liberated convict into social life. The society makes it its duty to bring to the knowledge of the government the results of its experience, and to act, when requested, upon the suggestions made by the executive authorities of the penal establishments.

3. The society only operates upon military prisoners when they are dismissed from prison and the army also.

II.—PARTICIPATION IN THE SOCIETY.

4. All are invited to co-operate with the society who have a sincere desire to promote its objects, regardless of the differences of station, sex, or religion.

5. This co-operation consists in—

(1.) Subscriptions or donations.

(2.) Advancing personally or otherwise the designs of the society.

6. Those members are alone considered to be entitled to vote and to elect who either pay a regular annual subscription of at least one florin, or who undertake continual personal services, namely, by participating in the immediate superintendence over the liberated convicts, by assisting in placing them, or by engaging in their instruction and religious education.

7. The society accepts thankfully the smallest contributions.

8. The society is especially desirous of the active participation in it of clergymen of all persuasions, persons in office, the heads of public bodies, schoolmasters, manufacturers, and farmers.

9. Regular subscriptions are payable on the 1st of July every year.

10. Members may cease to belong to the society at any time.

11. Notice of entering and quitting the society must be given to the president.

III.—THE

III.—The Constitution of the Society.

12. The affairs and business of the society are chiefly managed by a central committee, fixed at Stuttgart.

13. This consists of 12 members, inclusive of the president and vice-president, who must all be resident in Stuttgart, and are elected by a majority at the general meeting of the society.

14. The central committee elects from among its own members a president and a vice president.

15. Further, the committee elects either from its own members, or from those of the society generally, who reside in Stuttgart, one or more secretaries, and a treasurer, the particulars of whose security the committee must settle.

16. The central committee assembles once a month, and also as often as occasion may require, at the summons of the president or vice-president.

Questions are decided by a majority, and the president has the casting vote. The presence of four members at least, including the president, is necessary to give validity to a resolution.

17. Business that requires no discussion may be done by the president, with the assistance of a secretary, and, if necessary, of a reporter, and he must bring it to the knowledge of the committee at their next sitting. Accounts of disbursements are only rendered when ordered by the central committee.

Despatches must be signed by the president and one secretary.

18. The transaction of the business of the central committee is subject to the restrictions of special regulations.

19. A general meeting of the society takes place once in every two years: the day fixed for it is publicly announced.

20. On every such occasion half the members of the committee retire, the first time by lot, and on every succeeding occasion that half which has been longest on the committee. The retiring members may be re elected.

21. In the place of those members who having been elected, decline to act, or, having consented so to do, subsequently resign, those members of the society are called into the committee who at the last election obtained the next largest number of votes.

22. Absent members of the society who are entitled to vote may be represented at the general meeting by means of a plenary authority for that purpose, given to members who are present.

No member being present may represent more than three absent members.

23. At the general meeting of the society a report is made by the central committee, through the medium of its president, concerning the position and operation of the society in its several relations, and an account is rendered of the application of the subscriptions, which has been previously examined by a person conversant with such matters, who is not a member of the committee.

Moreover, the election of the new members of the committee takes place, and the welfare of the society is discussed, and any changes in or additions to the statutes that may be requisite are made.

24. Every member may take this opportunity of gaining an insight into what the society has done, and may state his opinion and wishes upon the subject.

25. The principal report, which must contain a list of all the names of the members of the society, and a summary of the results of the account, is printed, and presented to each member of the society gratis.

26. The members of the committee must manage the affairs of the society without remuneration. They can only require to be reimbursed out of the funds of the society such sums as may have been expended by them on the management of its business.

Regular salaries must be fixed for the assistants of the society: the central committee can, on that account, only appoint them until the period of the next general assembly.

27. If the society wishes to dissolve itself, any property that it may possess must be committed to the central body empowered to administer the charity of the society.

The Operation of the Society.

28. The society takes under its especial protection and superintendence those liberated convicts whose amelioration it attempts; it provides for their employment as far as the means at its disposal and its circumstances will permit; and it works salutarily upon their minds by advice, instruction, and religious edification, and it particularly seeks to prevent, by means of assisting to supply their moral and physical wants, a relapse into crime.

29. For this purpose, assistant societies are formed, partly in places where the penal establishments are situate, and partly in other districts in the kingdom. Ladies' associations may be attached to these assistant bodies, in order to carry out the designs of the society with regard to female liberated convicts.

30. The assistant societies of the places in which the penal establishments are situate, are in the first place to maintain the communication between the superintendents of the penal establishments and the central committee, to obtain and communicate information concerning the convicts in the locality of the prisons, and to execute the instructions they receive from the central committee.

31. The Royal Commission of Penal Establishments to which the society has to apply when it requires official information concerning the existing rules in different penal establishments and the circumstances of individual convicts, is requested to furnish the central committee quarterly, and, if occasion shall require, oftener, with lists of the prisoners about to be liberated at the next ensuing period who require the assistance of the society, in order that it may be able to take the necessary preliminary steps in good time, and to prepare, according to circumstances, for the re-entry of the convicts into social life.

32. These lists should contain under their several heads the following particulars:

1. The name, age, place of residence, district of government, state of the property and health, religion, trade, and rank and family, of the liberated convict.

2. The crime and length of sentence.

3. Day of release from prison.

4. Conduct whilst in prison.

5. Capabilities for business; probable means of subsistence during the period following his liberation, for instance, by means of savings of extra wages earned in prison.

6. Views and wishes of the convict with respect to his future release, besides the opinion of the governor of the prison as to what may be hoped of him in the event of his regaining his freedom.

33. According to these particulars, those convicts who intend to claim the benefit of the society are indicated by the central committee; and the assistant societies of the districts in which are situate the future places of settlement of the released convicts, are put in possession of the necessary observations, in order that they may take the preliminary measures concerning their settlement before the time for their release arrives.

24. On their liberation from prison, those indicated by the central committee are instructed to make application to the assistant society of the place of their future settlement on their arrival there, for which purpose written instructions are given to them by the assistant society of the place in which the prison is situated.

35. The society permits, according to circumstances, the supplying of individual convicts on their liberation with money or clothes, so far as the allowance made by the regulations of the Royal Commission of Penal Establishments (according to which pauper convicts receive a small supply of money and clothes) does not seem sufficient in particular cases.

36. The next task is to open to the released convicts the resources of an honourable livelihood, and by these means to accomplish their reformation. The assistant societies will endeavour, according to the local and particular circumstances of the individuals indicated to them, by a solicitous estimation and probation of their wishes and qualities, to place them in a situation to earn an honourable subsistence, without affording them opportunities for idleness.

37. Neglected boys and youths who wish to learn a business, are taught by honest masters. The assistant society of each district will interest itself with masters, heads of places, and public bodies, manufacturers, farmers, and other well-intentioned private persons, in order to obtain for them work and employment as artisans and servants, and remove, as far as possible, the objections which are generally entertained against taking persons who have been convicts.

38. The question whether industrial establishments should be formed, in which liberated convicts may be voluntarily employed, will be considered; or the society will in time, if they have the means of so doing, bring under consideration the formation of agricultural establishments.

39. It is the business of the assistant society of the district of every liberated prisoner for whom it is unsuccessful in obtaining work, or if the convict is incapable of any, to cause application to be made to the relations, or to the community or public body, who are bound to provide for his support, in order that the means of an honest subsistence may be provisionally obtained for him.

40. Since liberated convicts, on their return to their homes, are frequently again involved in the same ruinous circumstances and criminal associations which existed before their condemnation, and are thereby again drawn into their former evil courses, an endeavour is made in

in cases where such danger exists, to find a place of settlement for them away from their homes, and, if possible, in another district.

41. Besides interesting themselves for their employment and honest support, the society endeavours to work a moral and religious reformation in the liberated convicts. This object is sought by means of counsel, by admonitions and warnings, by religious instruction, and, above all, by promoting a religious way of thinking and living. The local clergy, and, if circumstances require it, other pious men, will be requested to keep under their especial observation those released convicts who belong to their respective communities, to inquire into the moral causes of their former errors, by conversing with them, to influence their understandings, to make them comprehend their position, to support them by religious consolations, and particularly to animate and enliven a persevering resolution of reformation, and a sense of true piety, morality, and respect for social order.

The society entertain a confident hope that the clergy, true to their calling, will meet its wishes and proposals in a willing manner.

42. The society will from time to time make itself accurately acquainted with the conduct of each liberated convict, after he has been provided for, and will take all further measures which may be rendered necessary.

43. So long as the contemplated extension of the society is incomplete, viz., as long as the assistant societies are not formed, the central committee will endeavour to carry on its operations through the instrumentality of the correspondents and agents which it acquires in the localities of the penal establishments, and in the several districts of the kingdom.

The society will moreover, until the greatest possible co-operation is established, limit its sphere of action to youthful offenders (male and female) up to the age of 25 years, especially those who are punished for offences against the property of others, and will only gradually embrace, with the increasing growth of the number of its members, a more extensive class of liberated convicts.

### Assistant Societies.

44. The assistant societies are formed from those members who are resident in the localities of the penal establishments, and the district assistant societies from those residing in each Government district.

45. Each assistant society elects from among its own members an acting committee. The number of members which constitute it must be regulated according to its circumstances and requirements. Such men must be elected for this purpose as, besides possessing the necessary qualities, are willing to devote both their time and influence to the furtherance of the designs of the society.

46. The district assistant societies must, as a rule, be located in each chief or district town; and, further, there may be several assistant societies in each Government district, and they may select any place in which they choose to establish their committee.

47. As soon as an assistant society is formed, and has selected its committee, the central committee must be apprised of it.

48. The assistant societies must endeavour to extend the society as much as possible, and must regulate their proceedings in the manner set forth in the former part of the statutes.

They must operate only on such persons as are indicated to them by the central committee.

If, however, circumstances induce them to extend their operation to others, viz., to such as have undergone punishment in the district prisons, they must inform the central committee thereof in their yearly report.

They must also communicate everything tending to the improvement of the society on the first opportunity to the central committee.

49. The subscriptions which are made to the society in the places where the penal establishments are located must be collected by the treasurers of the assistant societies, and will be entrusted to their several committees, to be applied either wholly or partially, according as the central committee shall think fit, and with such additions thereto, out of the central fund of the society, as circumstances shall require.

50. The committees of the assistant societies are to communicate with the central committee as often as may be necessary. Every year they must prepare a report of their operation, and the results attained, and of their experience, and append an account of the monies committed or sent to them to be applied.

51. The central committee has power to furnish the committees of assistant societies with such instructions as time and circumstances may require, and to bring their proceedings generally under the consideration of the society.

Appendix, No. 2.

WURTEMBERG.

From the Seventh Report of the society, it appears that during the 17 years that the society has been in existence, the total number of individuals it has had under its care is 1,914.

In accounting for the disposal of these 1,914 individuals, there must first be deducted those who, after having been taken under the protection of the society, have returned to their former ways, or who have died or left the country, in all, 666; there remain, therefore, 1,248.

| | |
|---|---|
| Of these may be considered as provided for, and, humanly speaking, saved, and no longer requiring the care of the society - - - - - - - | 336 |
| To which may be added - - - - - - - - - - - - who are still under the care of the society, and behave themselves with propriety. | 70 |
| | 406 |

According to which, more than a fourth of the cases under the care of the society are shown to have rewarded its labours with a successful result.

Under the head of expenses, must first be considered the costs of providing for the liberated convicts, which amounts in the two years—

| | | *Fl.* | *kr.* |
|---|---|---|---|
| 1846–47 | - - to - - | 2,300 | 38 |
| 1847–48 | - - to - - | 1,913 | 30 |
| | | *Fl.* 4,214 | 8 |

The number of individuals under the care of the society during these two years was 291; the average amount expended upon each during that period was therefore 14 *fl.* 29 *kr.*

But inasmuch as all the persons under the care of the society did not cause an expenditure, there being in reality only 165 out of the 291 who did, the average is 25 *fl.* 32 *kr.* for each individual.

Lastly, the total expenditure of the society, including the general expenses, and the cost of assisting prisoners whilst still in the house of correction, &c. &c., amounted in those two years to 7,103 *fl.* 31 *kr.*, giving a gross average expenditure upon each individual of 24 *fl.* 3 *kr.*, *i. e.*, upon the whole, 291 under the care of the society during that period.

Those who are under 25 years of age are the most expensive; it is the apprentices, and those who leave the prison in their youth, who require the largest expenditure in board, clothing, loans, &c. &c., and even in the money required for their travelling.

An asylum has been formed for female liberated convicts, in which work is found them, and their social and moral improvement is attempted: they are suffered to remain in the asylum during a period of one year and a half, but not longer.

If during the year and a half situations as domestic servants can be obtained for them, no objection is made to their quitting the asylum before the expiration of that period.

This asylum having at the date of this report been only recently formed by the union of the society for providing for released convicts, and another local society which projected the original undertaking of an asylum for female liberated convicts, no account can yet be given of its success.

---

SWEDEN.

## XI.—SWEDEN.

— 1. —

The gravest crimes are ordinarily punished, first, by an active penal infliction, then by an act of public penance at the parish church, and afterwards by hard labour, either for life or a term of years, in one of the fortresses of the State. The first penal infliction consists either of imprisonment with no other food than bread and water, or of flogging; the former cannot be prolonged beyond 28 days, and is the one usually employed, whilst the latter is only used rarely, and in special cases. The subsequent act of penance was formerly designed to represent the restoration of the criminal to the pale of the church, and it is essentially a religious act, but in the course of time it has assumed the form of a penalty, and is viewed by public opinion as a degrading punishment. The discipline of the convicts, after they are placed in their course of hard labour, is not uniform in all the prisons, because the government has for some years been employed in endeavouring to replace imprisonment in common by confinement in cells. As yet this measure has only been accomplished at Stockholm, and some of the provincial gaols. An endeavour, which has been made in some of the old prisons, to introduce a system of silence during the work of the convict, has been considered to produce good results, especially upon the internal discipline of the prison.

— 2. —

Discharged prisoners are placed under the surveillance of the police until they can succeed in either getting themselves hired in service, or finding some other means of subsistence. If in a given time they neither procure one nor the other, they are liable to be again sent to the public works for a definite period.

— 3. —

— 3. —

The whole number of convicts condemned for life amounted in the year 1849 to 1,353, and the number of convicts for terms of years to 1,242. The numbers sentenced in that year itself is 125 to hard labour for life, and 984 to hard labour for a given term.

— 5. —

The government considers the penal system to stand in need of amendment, and has more than once prepared the plan of a reformed code, although none has yet been finally adopted. The project is to abolish for the most part the first class of penalties above described under the name of penal inflictions, and to substitute imprisonment, but still leaving to the judge the power in grave cases of adding the other penalties which should, as far as possible, be undergone only in prisons provided with separate cells.

— 6. —

As to transportation, public opinion has always been against it, viewing it as an unsatisfactory punishment, and also one which would be very costly for a country which possesses no colonies of its own. Even supposing it possible that a foreign power would consent to open some of its penal settlements for the reception of Swedish criminals, there would be serious considerations of national law, and of private justice, for hesitating to make use of the opportunity.

---

## XII.—NORWAY.



— 1. —

The punishment used in Norway for grave offences not punished with death is hard labour, or imprisonment with compulsory work. This punishment is principally allotted to the following crimes: certain offences against the public authorities, manslaughter, gross sexual crimes, incest, arson, forgery, swindling, robbery, theft under aggravated circumstances, or by persons previously punished for the same offence, or for robbery, and divers serious crimes committed by public functionaries as such. Hard labour is also used for certain other offences, otherwise punished with simple imprisonment, when they are committed under highly aggravated circumstances. Hard labour is either for life or for a certain time; in the latter case, for a period of from six months to twelve years. Male offenders above 18, condemned to hard labour for life, or for more than six years, undergo their punishment in one of the four fortress "slave-gangs," established in certain fortresses of the State. In general these criminals work in irons. Other male and all female prisoners undergo their punishment in the houses of correction, of which there are four. In all these penal establishments the prisoners are treated according to the common system (the Auburn system), not only working together, but also having sleeping-rooms in common, the only separation strictly carried out being that between the two sexes. In the houses of correction the prisoners are kept perpetually at work, principally at coarser manufactures; in the "slave-gangs" they are employed partly in the same way, and partly on the repairs and fortifications going on at the several fortresses, at stone-cutting, or at some few handicrafts, but chiefly only on account of the public service, especially that of the army and the penal establishments themselves. Occasionally some difficulty has been experienced in these "slave-gangs" in always finding sufficient work for the prisoners. They labour direct for the public account, which consequently claims all sums realised. Formerly, in most prisons, a small money-fee was allowed the prisoners for all work performed exceeding a certain fixed quantity, and this sum was paid over to them at their liberation. This is now abolished, they being at present allowed, as an encouragement to industry, to take out the value of this additional labour in extra food allowances.

— 2. —

In general no steps are taken with regard to criminals who have served their time of confinement. The only measure in connexion therewith is, that when a more serious offender is freed from prison before his time is out, by the King's free pardon, the rule is, to discharge him only on condition that, for a certain period thereafter, he shall not be found in any of the towns where penal establishments are situated, or in any of the districts belonging thereto, unless such should be his place of residence. Any one offending against this regulation is re-imprisoned, but is soon again discharged, usually after about six months. The object of this arrangement is, as far as possible, to prevent masses of discharged criminals collecting in particular places, especially such as are the seats of the penal establishments. In the meantime this object can be very imperfectly obtained, no legal enactment enabling the authorities to apply this rule to the far more numerous class of offenders who undergo the whole period of punishment to which they have been condemned.

Appendix, No. 2

NORWAY.

— 4. —

The dietary allowances are all supplied in kind, according to a regulated scale fixed for each prison: in the Christiania House of Correction this is carried on for the public account; in the other prisons it is undertaken by contractors, who supply the whole at a fixed price for each portion. The average amount of the cost of food per day for each prisoner throughout the several prisons is about nine shillings.

— 5. —

The penal system now in force has long been acknowledged to be far from satisfactory, especially on the ground of the free intercommunication allowed to the prisoners. The first step to a thorough reform of the whole is the erection of a cellular prison at Christiania, containing 238 cells, and in its general features arranged on the plan of the Pentonville establishment. This prison, which is not yet quite ready, and will probably first be occupied during the course of next year, will receive male offenders between 18 and 30 years of age, and who would otherwise have been sent to a house of correction. When confinement in this prison is substituted for common hard labour, the time of punishment will be reduced one-third.

— 6. —

Norway has never had any penal colony, and, as far as is known, has never felt the want of one.

---

PORTUGAL.

## XIII.—PORTUGAL.

In the year 1847, 329 convicts were transported, 34 in 1848, 300 in 1849; and in the present year (1850) upwards of 400 are ready for transportation, which gives as a medium about 260 convicts annually. When these convicts arrive at the different provinces, they are enlisted in one of the military corps, if their age and health permit, and if not enlisted for any of these reasons, or on account of other considerations, such as the social position of the individuals, they are sent by the governor to reside at the places which may be considered most convenient, keeping in view the affording them the facility of procuring the means of subsistence, subject, however, to the constant vigilance of the local authorities.

Except with such as are enlisted, no further expense is incurred with the convicts beyond that of their conveyance; and when their term of transportation is up, the provincial authorities furnish them, on requesting it, with passports for returning to the kingdom, otherwise they continue to reside in the province as free subjects. That system of transportation to the transmarine provinces may be considered beneficial, from the improvement which in general is observed in the behaviour of the convicts, and no reasons have as yet been brought forward to warrant its discontinuance.

---

TUSCANY.

## XIV.—TUSCANY.

— 1. —

Discipline of Offenders.

The penalty of death, though not legally abolished, has never been executed during the present reign (now 26 years). The punishment of hard labour in the bagnios has been abolished by the provisional government by Guerazzi, which decree was confirmed by the Grand Ducal Commissioner in May last.

The pillory and exile were abolished at the same time.

In lieu of the bagnio, convicts are sentenced to an "ergastolo" (penitentiary); but the present inmates of the Bagnio of Leghorne are allowed to remain until the expiration of their sentences.

The Tuscan penitentiaries are under the superintendence of Seignior Peri, an enlightened reformer; the system universally introduced by him consists of—

1. Continual and total separation of the prisoners from each other in cells.

2. Repeated visits during the day to each convict by the officers of the establishment, schoolmasters, chaplains, and charitable citizens, entitled "Buonuomini."

3. Compulsory labour.

4. The only punishments for offences in prison is a smaller cell, corporal punishments being abandoned.

— 2. —

— 2. —

Measures of precaution after completion of sentence.

Numerous societies in activity at Florence, Volterra, and San Gunizano, to provide occupation for liberated convicts.

— 3. —

Numbers sentenced.

The average number annually sentenced for those offences referred to has been, during the six years from 1844 to 1849 inclusive, 120. The number now undergoing punishment is 527.

The number of those liberated annually is on average 108.

— 4. —

Cost.

The average annual cost of prisoners during the last six years in the penitentiaries, after allowing for the profit derived from their labour per head, has been 6 *l.* 14 *s.*; to this add 2 *l.* 16 *s.* for the cost of guards, &c., making a total annual cost of 9 *l.* 10 *s.* per head.

The number of guards found necessary are five per cent. to the number of prisoners.

— 5. —

The new criminal commission, and all practical men in this country, seem satisfied that the cellular system in the penitentiary is the most advantageous, with total separation of the convicts from each other.

— 6. —

Penal settlements are impracticable in Tuscany, and have never been discussed.

---

## XV.—RUSSIA.



[An excellent and elaborate treatise was supplied in the French language in answer to the inquiries addressed to the Russian Government upon the penal system followed in that country. A translation of it would far exceed the limits which could be allowed in this place, and the following is necessarily a very abridged summary.]

— 1. —

A new criminal code was established in the year 1845 for the Empire of Russia. The punishments by that code are divided into the two classes of "capital" and "correctional" punishments.

The punishments denominated "capital" consist of—

1. Death.
2. Hard Labour.
3. Transportation to Siberia.
4. Transportation beyond the Caucasus.

The characteristic of the whole of these so called "capital" punishments is, that they carry with them a complete political and civil death. The individual loses his rank and all his rights, personal, social and political; his marriage may be annulled on the demand of his wife; he ceases to be a member of his family, and is as entirely deprived of all his privileges as if he were naturally dead.

But inasmuch as this deprivation of all rights is much greater in the case of persons of the higher classes, and inasmuch also as removal to Siberia is a much heavier punishment for them than for people accustomed from their childhood to labour, this difference in the condition of the two classes is equalised by inflicting on humbler offenders personal chastisement, in addition to the other penalties. For this purpose, however, the whip has been substituted for the instrument called the knout, which was found liable to abuse.

The punishment of death is only inflicted for crimes of the gravest character, including the higher political offences, and also the most serious infractions of the laws of quarantine in time of pestilence.

Sometimes public exposure on the scaffold is substituted for the punishment of death; but if so, it is always followed by the annihilation of all rights, and by hard labour.

The punishment of hard labour may be inflicted—

1. In the mines.
2. In a fortress.
3. In the public factories and workshops.

Appendix, No. 2.

RUSSIA.

Persons who receive this sentence are usually sent to Siberia, excepting only that those in the second class may be despatched to fortresses situated in other parts of the empire.

Transportation to Siberia is allotted to offences which are grave, but are less so than those which involve the penalty of hard labour. Persons who receive this sentence are distributed into workmen in the factories, workmen skilled in particular handicrafts, servants, colonists, and people incapable of any labour. These last have their maintenance provided for them in public institutions.

Transportation beyond the Caucasus is only inflicted for religious offences. The inhabitants of Russia in Europe are transported for such offences beyond the Caucasus. The inhabitants of these provinces themselves are transported to the colonies of Siberia; and offenders in Siberia itself to the more remote Governments of that part of the empire.

Such being the severest punishments distinguished by the name of "capital," there remains the class of correctional punishments. The highest degree of these punishments involves the loss of rank, distinction, and all political rights, but not those of family and of property. For persons of the superior classes the usual punishment of this kind is simple transportation (without being made a colonist) to Siberia, or some of the more remote Governments of the empire. For persons of humble degree the punishment consists of being distributed into disciplinary bands of convicts, placed under the jurisdiction of the civil authorities, and liable to be punished by flogging, according to the gravity of their offences, or by confinement in prison.

Besides this higher degree of correctional punishment, there is also confinement in prisons situated in the fortresses, confinement in other prisons, brief arrests for periods not exceeding three months, together with fines and judicial reprimands.

Renewed offences are visited by an aggravation of punishment.

— 3. —

The number of persons who received sentence in the year 1847, amounted to 45,727. Of this number there were sentenced to—

| | |
|---|---|
| Hard labour | 1,095 |
| Transportation to Siberia | 1,860 |
| Ditto - beyond the Caucasus | 175 |
| Ditto - (simple) to Siberia | 644 |
| Ditto - to other remote Governments | 259 |
| The disciplinary corps | 5,435 |
| Houses of correction | 1,660 |
| | 11,128 |

— 5. —

Until the new code was introduced, the system of penal discipline was the growth of time and of accident, and involved many defects. The chief of these have been remedied by the new code. There are still, however, inconveniences from the want of a sufficient number of suitable places of confinement, and the Government has been engaged in providing for the introduction of the plan of imprisonment in separate cells. No difficulty of importance has been met with in effecting the conveyance of transported criminals to their place of destination.

THIRD

# REPORT

FROM THE

SELECT COMMITTEE

ON

# TRANSPORTATION;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

AND APPENDIX.

*Ordered, by* The House of Commons, *to be Printed*,
11 *July* 1856.

[*Price* 1 *s.*]

355.

*Under* 16 *oz.*

# I N D E X

TO

# REPORTS

FROM THE

## SELECT COMMITTEE

ON

# TRANSPORTATION.

*Ordered, by* The House of Commons, *to be Printed*,
11 *July* 1856.

# ANALYSIS OF INDEX.

ALPHABETICAL and CLASSIFIED LIST of the PRINCIPAL HEADINGS in the following INDEX, with the Paging at which they will be respectively found.


PAGE

*ASSIGNMENT System (Colonies)* - - - - 3

*Association of Convicts* - - - - - - 3

*Bermuda and Gibraltar* - - - - - - 4

*Brixton Prison* - - - - - - - - - 5
*Gratuities (Prison Labour)* - - - - - 19

*Certainty of Punishment* - - - - - - 6

*Colonists* - - - - - - - - - 6
*New South Wales* - - - - - - 35
*Penal Colonies* - - - - - - - 39
*Van Diemen's Land* - - - - - - 58
*Victoria* - - - - - - - - 58
*Western Australia*, 5. 7. - - - - - 62

*Commutation of Sentence* - - - - - - 7
*Penal Servitude* - - - - - - - 39
*Remission of Sentence* - - - - - - 46

*Crime* - - - - - - - - - - 8
*Education* - - - - - - - - 12
*Homes of Criminals* - - - - - - - 23
*Instigation to Crime* - - - - - - - 24
*Locomotion* - - - - - - - - 30
*Prevention of Crime* - - - - - - - 43
*Revocations of Licences*, 1. - - - - - - 47
*Re-convictions* - - - - - - - - 47
*Short Imprisonments* - - - - - - - 49
*Tickets of Leave, or Licences to be at large*, 6. 8. 9. 10. 11 - - - - - - - - 52

*DETERRENT PUNISHMENT:*
1. *Evidence tending to show that Penal Servitude Sentences are more dreaded than Sentences of Transportation* - - - 10
2. *Evidence to a contrary purport* - - - 11
3. *Question as to rendering Transportation, if continued, more penal* - - - - - 11
4. *Generally as to Deterrent Punishments, and the Policy thereof* - - - - - 11

*Agrarian Offences (Ireland)* - - - - 1
*Bermuda and Gibraltar* - - - - - - 4
*Commutation of Sentence* - - - - - - 7
*Long Imprisonments* - - - - - - 31
*Penal Servitude* - - - - - - - 39
*Prison Discipline* - - - - - - - 43
*Separate System* - - - - - - - 48
*Transportation* - - - - - - - 55

*Emigration* - - - - - - - - - 14
*Canada* - - - - - - - - - 6
*Free Emigrants* - - - - - - - 18
*Gratuities (Prison Labour)* - - - - - 19
*Liberty* - - - - - - - - - 30
*Western Australia*, 1. 7. - - - - - 62

*Employment* - - - - - - - - - 14
*Female Convicts*, 2. - - - - - - - 17
*Intermediate Establishments* - - - - 24
*Juvenile Offenders*, 2. - - - - - - 29
*Moveable Prisons* - - - - - - - 35
*Patronage Societies* - - - - - - - 39
*Police Surveillance* - - - - - - - 41
*Refuges for Discharged Prisoners* - - - 45
*Wright, Mr.* - - - - - - - - 64

PAGE

*Enforcement of Conditions of Release* - - - - 15

*Expense of Transportation* - - - - - - - 16

*FALKLAND ISLANDS:*
1. *Objections to the Formation of a Penal Settlement* - - - - - - - 16
2. *Evidence in favour of a Penal Settlement* - 16

*FEMALE CONVICTS:*
1. *As to their Prison Treatment in this Country* 17
2. *Difficulty as regards Employment on Discharge* - - - - - - - - 17
3. *Difficulty as regards their Reformation* - 17
4. *As to their Transportation to the Colonies* - 17

*Brixton Prison* - - - - - - - - 5
*Emigration* - - - - - - - - 14
*Fulham Female Refuge* - - - - - - 18
*Intermediate Establishments* - - - - 24
*Patronage Societies* - - - - - - 39
*Refuges for Discharged Prisoners* - - - 45

*Free Emigrants* - - - - - - - - 18
*Western Australia* - - - - - - 61

*Fulham Female Refuge* - - - - - - - 18

*Glasgow* - - - - - - - - - - 18

*Gradation of Punishment* - - - - - - - 19
*Life Sentences* - - - - - - - - 30

*Gratuities (Prison Labour)* - - - - - - 19

*Habitual Offenders* - - - - - - - - 21
*Incorrigible Criminals* - - - - - - - 24

*Hulk System* - - - - - - - - - 23
*"Stirling Castle" Hulk* - - - - - - 50

*Identification of Ticket-of-Leave Men* - - - - 23

*Incorrigible Criminals* - - - - - - - 24
*Habitual Offenders* - - - - - - - 21
*Life Sentences* - - - - - - - - 30

*Industrial Prison Labour* - - - - - - - 24
*Gratuities (Prison Labour)* - - - - - 19
*Mark or Task System* - - - - - - - 33

*INTERMEDIATE ESTABLISHMENTS:*
1. *As to the Plan being carried out in Ireland under Captain Crofton* - - - - - 24
2. *As to the Institution about to be established by Mr. Mayhew* - - - - - - 25

*Emigration* - - - - - - - - 14
*Employment* - - - - - - - - 14
*Moveable Prisons* - - - - - - - 35
*Patronage Societies* - - - - - - - 39
*Refuges for Discharged Prisoners* - - - - 45

*Ireland* - - - - - - - - - - 25
*Agrarian Offences (Ireland)* - - - - 1
*Intermediate Establishments*, 1. - - - - - 24
*Labour of Convicts* - - - - - - - 30
*Moveable Prisons* - - - - - - - 35
*Police Surveillance*, 3. - - - - - - - 42
*Prison Discipline* - - - - - - - 43
*Tickets-of-Leave, or Licences to be at large*, 8. 12. - 54

*Juvenile Offenders:* PAGE

1. *Difficulty with respect to Transportation* - 29
2. *Practice as regards Employment at Home* - 29
3. *Result of the System of Conditional Release* 29

*Emigration* - 14
*Gratuities (Prison Labour)* - 19
*Parkhurst Prison* - 38

*Labour of Convicts* - 30
*Agricultural Labour (Convicts)* - 1
*Gratuities (Prison Labour)* - 19
*Highlands, Scotland* - 21
*Industrial Prison Labour* - 24
*Intermediate Establishments*, 1. - 24
*Mark or Task System* - 33
*Moveable Prisons* - 35
*Public Works* - 44
*Value of Convict Labour* - 58

*Liberty:*
1. *When Released on Licence* - 30
2. *Before actual Release from Prison* - 30

*Life Sentences* - 30

*London* - 31

*Long Imprisonments* - 31

*Mark or Task System:*
1. *Explanation and Advocacy of the System by its Inventor* - 33
2. *Opinions for and against the System* - 33

*Moreton Bay* - 35

*Moveable Prisons* - 35

*New South Wales* - 35

*Norfolk Island* - 36
*Mark or Task System* - 33

*Parkhurst Prison* - 38
*Gratuities (Prison Labour)* - 19
*Juvenile Offenders* - 29

*Patronage Societies* - 39
*Intermediate Establishments* - 24
*Refuges for Discharged Prisoners* - 45

*Penal Colonies* - 39
*Canterbury Settlement* - 6
*Carpentaria, Gulf of* - 6
*Chatham Islands* - 6
*Colonists* - 6
*East Australia* - 12
*Falkland Islands* - 16
*Good Hope, Cape of* - 18
*Harvey Bay* - 21
*Hebrides* - 21
*Hudson's Bay Company's Territories* - 23
*Moreton Bay* - 35
*New South Wales* - 35
*New Zealand* - 36
*Norfolk Island* - 36
*North American Colonies* - 36
*North Australia* - 36
*Port Essington* - 43
*Transportation* - 55
*Vancouver's Island* - 58

*Penal Servitude:*
1. *Power under the Act* 16 & 17 *Vict., in regard to Transportation or Remission of Sentence* 39
2. *Practice to Exact the Sentence without Remission* - 40
3. *Bar to Reformation and Prison Discipline under the present System* - 40
4. *Great Importance of Remission; how it may best be carried out* - 40
5. *Recommended Assimilation, as regards Term, to Sentences of Transportation* - 41
6. *Statement as to the Number of Penal Servitude Sentences* - 41

*Bermuda and Gibraltar* - 4
*Certainty of Punishment* - 6
*Commutation of Sentence* - 7

*Penal Servitude*—continued. PAGE
*Crime* - 8
*Deterrent Punishment* - 10
*Gradation of Punishment* - 19
*Long Imprisonments* - 31
*Remission of Sentence* - 46
*Uncertainty of Punishment* - 57

*Place of Conviction* - 41

*Police Surveillance:*
1. *As to the Manner in which carried out generally* - 41
2. *Instructions given to the Metropolitan Police* - 42
3. *Ireland* - 42
4. *Scotland* - 42
5. *Prussia* - 42
6. *Want of Notification to the Police when Licences are granted* - 42
7. *Policy of the Principle of Surveillance considered* - 42

*Portland Prison* - 43

*Prison Discipline* - 43
*Association of Convicts* - 3
*Brixton Prison* - 5
*Corporal Punishment* - 7
*Dartmoor Prison* - 10
*Education of Prisoners* - 12
*Female Convicts*, 1. - 17
*Gratuities (Prison Labour)* - 19
*Hulk System* - 23
*Industrial Prison Labour* - 24
*Intermediate Establishments*, 1. - 25
*Liberty* - 30
*Long Imprisonments* - 31
*Mark or Task System* - 33
*Millbank Prison* - 35
*Moveable Prisons* - 35
*Notices to Convicts* - 36
*Parkhurst Prison* - 38
*Penal Servitude*, 2. 3. 4. - 40
*Portland Prison* - 43
*Public Works* - 44
*Reformatory Punishment* - 44
*Remission of Sentence* - 46
*Self-supporting Prisons* - 48
*Separate System* - 48
*Short Imprisonments* - 49
*Transportation*, 5. 6. - 56

*Prussia* - 44

*Public Opinion* - 44

*Public Works* - 44
*Bermuda and Gibraltar* - 4
*Dartmoor Prison* - 10
*Falkland Islands* - 16
*Gratuities (Prison Labour)* - 19
*Moveable Prisons* - 35
*Portland Prison* - 43
*Value of Convict Labour* - 58

*Reformatory Punishment* - 44
*Agricultural Labour of Convicts* - 1
*Deterrent Punishment*, 4. - 11
*Female Convicts*, 1. 3. 4. - 17
*Habitual Offenders* - 21
*Intermediate Establishments* - 24
*Juvenile Offenders*, 3. - 29
*Long Imprisonments* - 31
*Mark or Task System* - 33
*Moveable Prisons* - 35
*Penal Servitude* - 39
*Prison Discipline* - 43
*Public Works* - 44
*Remission of Sentence* - 46
*Separate System* - 48
*Short Imprisonments* - 49
*Tickets of Leave, or Licences to be at large* - 51
*Transportation* - 55

PAGE

*Refuges for Discharged Prisoners* - - - - 45
*Birmingham Discharged Prisoners' Aid Society* - 4
*Dalston Refuge for the Destitute* - - - - 10
*Elizabeth Fry Refuge* - - - - - - 12
*Fulham Female Refuge* - - - - - 18
*Intermediate Establishments* - - - - 24
*Lusk Female Reformatory* - - - - - 32
*Patronage Societies* - - - - - - 39
*Wakefield House of Refuge* - - - - - 60

*Remission of Sentence* - - - - - - - 46
*Commutation of Sentence* - - - - - 7
*Mark or Task System* - - - - - - 33
*Penal Servitude* - - - - - - - 39
*Tickets of Leave, or Licences to be at large* - - 51
*Uncertainty of Punishment* - - - - - 57

*Revocations of Licences:*
1. *Number, comparatively, of Revocations and of Licences* - - - - - - - 47
2. *Power and Practice in regard to Revocations* - - - - - - - - 47
*Enforcement of Conditions of Release* - - - 15

*Scotland* - - - - - - - - - - 47
*Edinburgh* - - - - - - - - - 12
*Glasgow* - - - - - - - - - 18
*Police Surveillance*, 4. - - - - - - 42
*Tickets of Leave, or Licences to be at large*, 9. - 51

*Separate System* - - - - - - - - 48
*Millbank Prison* - - - - - - - 35
*Transportation*, 5. 6. - - - - - - 56

*Short Imprisonments* - - - - - - - - 49

*Tickets of Leave, or Licences to be at large:*
1. *Origin of the System of Conditional Discharge in this Country* - - - - - 51
2. *Form of Licence, as distinguished from a Ticket of Leave* - - - - - - 52
3. *Restriction hitherto of the Licence to Sentences of Transportation* - - - - 52
4. *Form of Proceeding in granting the Licence* 52
5. *Colonial Regulations considered in regard to Tickets of Leave* - - - - - - 52
6. *Approval of the Principle of Conditional Discharge in this Country* - - - - 52
7. *Number of Licences issued* - - - - 52
8. *Evidence in Proof of the favourable Working of the System; few Relapses into Crime* - 53
9. *Argument that the System has worked very unfavourably* - - - - - - 53
10. *Undue Amount of Benefit attributed to the System* - - - - - - - 54
11. *Evidence on the Question of Ticket-of-Leave Men instigating others to Crime* - - 54
12. *Insufficient Data as yet for calculating the Effect of the System* - - - - - 54
*Absolute Discharge* - - - - - - - 1
*Assignment System (Colonies)* - - - - 3
*Association of Convicts* - - - - - - 3
*Birmingham* - - - - - - - - - 4
*Bristol* - - - - - - - - - - 5
*Burglary* - - - - - - - - - - 5
*Chaplains* - - - - - - - - - 6
*Clerkenwell* - - - - - - - - - 6
*Commutation of Sentence* - - - - - - 7
*Crime* - - - - - - - - - - 8
*Edinburgh* - - - - - - - - - 12
*Employment* - - - - - - - - - 14
*Enforcement of Conditions of Release* - - - 15
*Glasgow* - - - - - - - - - - 18
*Identification of Ticket-of-Leave Men* - - - 23
*Ireland* - - - - - - - - - - 25
*Juvenile Offenders*, 3. - - - - - - - 29

*Tickets of Leave, &c.*—continued. PAGE
*Liberty* - - - - - - - - - - 30
*London* - - - - - - - - - - 30
*Parkhurst Prison* - - - - - - - 38
*Penal Servitude* - - - - - - - 39
*Police Surveillance* - - - - - - - 41
*Public Opinion* - - - - - - - - 44
*Recommittals* - - - - - - - - 44
*Restrictions on Release* - - - - - - 46
*Revocations of Licences* - - - - - - 47
*Scotland* - - - - - - - - - 47
*"Stirling Castle" Hulk* - - - - - 50
*Uncertainty of Punishment* - - - - - 57
*Vagabondage* - - - - - - - - 58
*Westminster* - - - - - - - - 62

*Transportation:*
1. *As to the Advantages generally of Transportation, and the Expediency of its Continuance* - - - - - - - 55
2. *Recommended Return to Sentences for Ten Years* - - - - - - - 56
3. *Proposition relative to Sentences for Fifteen Years and upwards* - - - - - 56
4. *Suggested Abolition, nominally, of all Sentences of Transportation* - - - 56
5. *Regulations, as laid down by Earl Grey, for carrying out the Sentence* - - - 56
6. *Approval of the foregoing Regulations, the penal part of the Sentence being passed in this Country* - - - - - - 56
7. *Number of Sentences of late Years; Proportion carried out* - - - - - 56
8. *Practice formerly in carrying out Sentences for Seven Years* - - - - - 57
*Agrarian Offences (Ireland)* - - - - 1
*Assignment System (Colonies)* - - - - 3
*Colonists* - - - - - - - - - 5
*Deterrent Punishment* - - - - - - 10
*Exiles* - - - - - - - - - 16
*Female Convicts*, 4. - - - - - - - 17
*Gold Fields, Australia* - - - - - - 18
*Incorrigible Criminals* - - - - - - 24
*Ireland* - - - - - - - - - 25
*Juvenile Offenders* - - - - - - - 29
*New South Wales* - - - - - - - 35
*Norfolk Island* - - - - - - - - 36
*Penal Colonies* - - - - - - - - 39
*Penal Servitude*, 1. - - - - - - - 39
*Select Committees, Reports of* - - - - 48
*Tickets of Leave, &c.*, 3. 5. - - - - - 52
*Van Diemen's Land* - - - - - - - 58
*Western Australia* - - - - - - - 61

*Uncertainty of Punishment* - - - - - - 57

*Van Diemen's Land* - - - - - - - 58

*Western Australia:*
1. *General Character of the Colony; its Failure* - - - - - - - 61
2. *Number of Convicts sent out in recent Years* - - - - - - - - 61
3. *Good Conduct of the Convicts* - - - 61
4. *Expense, to this County, of Transportation* - 61
5. *Demand in the Colony for Convicts; the same considered* - - - - - - 61
6. *Extent to which advisable to continue Transportation* - - - - - - - 62
7. *Recent Complaint by the Colony against the System as now conducted* - - - 62
8. *Discipline carried out by the newly appointed Governor* - - - - - - - 62
*Expense of Transportation* - - - - - 16
*Labour of Convicts* - - - - - - - 30
*Transportation* - - - - - - - - 55

# I N D E X.

[*N. B.*—In this Index the Figures following the Names of the Witnesses refer to the Questions in the Evidence; those following *App. p.* to the Paging of the Appendices of the several Reports; and the Numerals following *Third Rep. p.* to the Paging of the Report of the Committee].


A.

*ABERDEEN.* Reference to the circumstance that in Aberdeen there is a class of persons who systematically endeavour to entrap and lead into fresh crime boys on their discharge from prison, *O'Brien* 693, 694.

*Absolute Discharge.* Advantages of a proper system of test, accompanied with a stimulus to good conduct, to be followed by absolute discharge on the due expiration of the entire sentence, *Crofton* 1519–1522——Impression that as ticket-of-leave men become a marked class it would be better to release absolutely and without restriction, *Jebb* 1250–1258.

Objection to unconditional release in this country after the termination of the severe part of the sentence, *Lord Grey* 1707.

*See* also *Tickets of Leave, or Licences to be at Large*, 6.

*Act* 16 *&* 17 *Vict. c.* 99. Witness partly superintended the preparation of the Act; Lord Palmerston and the Lord Chancellor having been the main parties to it, *Waddington* 3, 4. 18. 123-125——Necessity in 1853 for an alteration of the law, when the sentences of transportation could in such few instances only be carried out, *ib.* 17. 20.

*Agrarian Offences, Ireland.* Great importance of retaining transportation as the punishment of those convicted of public disturbances, or of serious agrarian crimes, *Sir M. Barrington* 2356. 2366–2381. 2385. 2394–2396. 2400–2405. 2421——More dread entertained by agrarian offenders of transportation than of penalservitude at home, *ib.* 2357–2361. 2367–2371——Distinction between agrarian offenders and ordinary offenders in regard to the apprehension respectively of transportation and penal servitude, *ib.* 2373–2377. 2385–2388. 2400–2409. 2421——Unsuitableness of tickets of leave in the case of agrarian offenders, *ib.* 2376–2381——Ticket-of-leave men who had been convicted of certain agrarian crimes would readily obtain employment in Ireland, *ib.* 2419, 2420.

*Agricultural Labour* (*Convicts*). Advantage if agricultural labour in this country were compatible with restricted liberty, *Elliot* 514–517——Particulars as to the system of agricultural labour, &c., at Parkhurst; the main employment is by spade labour, *O'Brien* 605–617. 686–692——Value of agricultural labour for moral training, though as regards profit, such employment at Dartmoor is not favourable, *Whitty* 929–932; *Jebb* 1141–1143——Advantage of a system of agricultural employment in carrying out the reformation of Irish convicts; means contemplated for the purpose, *Crofton* 1653–1659.

*Alison, Sir Archibald, Bart.* (Analysis of his Evidence.)—Has been Sheriff of Lanarkshire for twenty-one years, and for ten years previously was one of the Crown Counsel for Scotland, and advocate depute, 1951——Has had very abundant opportunities for witnessing the administration of the criminal law in Scotland, 1952–1955——In consequence of the peculiar gradation of punishments in Scotland, has from the first had great apprehensions that the system of imprisonment and penal servitude in lieu of transportation would be very pernicious, 1956, 1957. 2023——Previouly to the Act of 1853 the partial abandonment of transportation had already led to very bad results as regards Glasgow, 1957.

Statement as to the very numerous instances of criminals sentenced in Scotland to transportation or penal servitude, who within a year or two of the sentence are again found at large and reconvicted, 1957 *et seq.* 2072——Number of ticket-of-leave men reconvicted in Glasgow in each year since 1852; 1958——Conclusion that the ticket-of-leave system has had the worst possible effect in Scotland, and has sent back the worst and most dangerous class of convicts as a prey upon society, 1958 *et seq.*——If not themselves engaged in the commission of crimes ticket-of-leave men lead others into crime,

Reports, 1856—*continued.*

*Alison, Sir Archibald, Bart.* (Analysis of his Evidence)—*continued.*

crime, 1958——They are connected, directly or indirectly, in the very worst class of crimes, 1958, 1959. 2038, 2039.

Much larger portion of ticket of leave men who commit crime than are identified to have done so, 1959——Difficulties in the way of discovering whether a convict is a ticket-of-leave man, 1959. 1963, 1964. 1970——Practice to retain transports in Glasgow prison for a short time only previous to their being sent to England, 1961. 2035. 2036. 2038. 2042-2044——Those liberated before their time are generally the greatest adepts in deception, the system of chaplains' reports being most erroneous, 1965. 2046. 2086——Assumption that nineteen-twentieths of the persons indicted at the Scotch circuits have been liberated from sentences of penal servitude or transportation, 1965. 1967-1975——Few instances of return of convicts to Scotland during the operation of transportation, 1977.

Additional punishment in Scotland if a man were convicted who had been liberated under ticket of leave, 1978-1982——Opinion as to the impossibility of reforming real criminals by any system of prison discipline or punishment, 1979. 1988. 2009-2016——Increase of crime in Glasgow up to the time of the war, since which there has been a decrease, 1983, 1984. 2073, 2074——Evidence strongly in favour of the old system of transportation as a means of deterring and reforming offenders, 1985-1988. 2008. 2009. 2013-2016. 2018-2022. 2092.

Belief that proper steps being taken transportation might again be made popular to the colonists, 1985. 1989-1991. 2001, 2002. 2061. 2064, 2065——Substitution of the gang system for the assignment system adverted to as one cause of the colonial agitation against transportation, 1985. 1990, 1991——There should be three modes of punishment of criminals, namely, imprisonment and industrial labour in the case of the young and less hardened, and transportation in the case of the adult, 1986, 1987. 2007, 2008——Peculiar tendency to reformation if the convicts be released in the colony, 1986-1988. 2013. 2015——If transportation is impossible, imprisonment and tickets of leave are the best alternative, 1989. 2046. 2075-2078.

Expediency in conducting any system of transportation of sending out four or five free settlers for every convict, if necessary, at the public expense, 1991-2000. 2006-2008. 2017. 2050-2053——The formation of new penal settlements and the construction of public works might, with proper management, draw an ample supply of free settlers at their own expense, 1991-1994. 2000-2005. 2017. 2050-2053. 2060-2064——Penal servitude should be abolished and transportation retained, 2006——Large saving in the cost of imprisonment if convicts were transported at an early period of their career, 2006-2008.

If transportation be impracticable, one of the islands in the Hebrides, such as Islay, should be allotted to convicts and cultivated by spade labour, 2009. 2024, 2025. 2034. 2066, 2067——There should also be a staff of detectives to go from place to place to identify ticket-of-leave men before reconviction, 2025. 2034——Suggestion that together with the ticket of leave means be provided to carry out emigration to Canada, 2026-2028——The licence should be extended to any part of Her Majesty's dominions, 2027, 2028.

Opinion that four or eight years' penal servitude at home are respectively more severe than seven or fourteen years' transportation as formerly carried out, 2029, 2030. 2076-2080.——Instead of shortening the term in the case of well-conducted prisoners, it would be better to teach them trades, and to pay them gratuities as a means of emigration, 2031-2034——Absence of tendency to crime if criminals be provided with means of emigration under tickets of leave, 2032. 2054-2056——Insufficient size of Glasgow prison to admit of reformatory discipline, 2036-2038. 2040, 2041.

Witness is not prepared to admit that the principle of transportation has failed; he attributes its partial failure to the adoption of an improper system, 2048-2050. 2061-2065——Anticipated proper appreciation by the public in this country, as well as by the colonists, of a combined system of transportation and free emigration, 2051-2056. 2061-2065——Expediency of employing the transports, before liberation under ticket of leave, on public works in the colony rather than on public works at home, 2053. 2060. 2063——After employment in gangs on colonial public works the convicts might, if well-conducted, either be discharged under licence on the assignment system or absolutely discharged, 2057-2059.

Necessity in establishing any new penal colony of guarding carefully against the repetition of such crimes as occurred under the system in Norfolk Island, 2067, 2068——Inadequacy of private benevolence as a means of defraying the expense of the emigration of discharged convicts, 2069, 2070——Witness would gladly approve of convict labour in the Highlands of Scotland if the land was properly reclaimable, 2071——Great importance of some mode, such as that afforded by tickets of leave, of shortening imprisonment, as an inducement to good conduct, 2075-2078. 2084, 2085.

Evils of the uncertainty inherent in the present system of penal servitude or transportation,

Reports, 1856—*continued.*

*Alison, Sir Archibald, Bart.* (Analysis of his Evidence)—*continued.*

portation, the convict not having the least idea how the sentence will be carried out, 2081–2085——Decided approval of Captain Maconochie's proposition for testing the good conduct of the prisoner, with a view to his discharge, by the amount of work performed by him, 2086–2089——The proper men to send to a penal establishment in one of the Scotch islands are those who are least depraved, and whose habits of rural industry are most confirmed, 2090–2092——Inexpediency of sending transports to the immediate neighbourhood of the gold fields, 2093, 2094.

*America.* Approval of the practice in America of punishing the graver offences with four or five years' imprisonment instead of transportation, *Jebb* 1134.

*Assignment System* (*Colonies*). Drawbacks upon the advantages of the assignment system which led to its condemnation by the Select Committee of 1837–38, *Elliot* 273——Employment in Western Australia of about 1,000 ticket-of-leave men in private service, *ib.* 345, 346.

Somewhat precipitate abandonment of the system of assignment, *Lord Grey* 1693, 1694. 1757–1759. 1774——The system had great advantages as well as disadvantages, *ib.* 1694.

Substitution of the gang system for the assignment system adverted to as one cause of the colonial agitation against transportation, *Sir A. Alison* 1985. 1990, 1991——Doubt as to any material departure from the original plan in Western Australia in regard to local depôts and the dispersion of the convicts, *Elliot* 4064–4067.

*Association of Convicts.* Evil result of the system of association of convicts in Norfolk Island and Van Dieman's Land, *Waddington* 188–190. 193——Disapproval of the collection of ticket-of-leave men in large numbers in the same building, *Jebb* 1207, 1208——Evil in the association of ticket-of-leave men after discharge, *Shepherd* 3139–3141——Importance of keeping the men away from their old associates, *Brennan* 3288.

*Australian Criminals.* Manner in which Australian home criminals are punished, *Walpole* 2531–2532.

*Austria.* Official report on the criminal code and system of penal discipline, together with the opinion of the Government as to punishment by transportation, *App.* (*Third Rep.*) *p.* 52–54.

B.

*Baden.* Practice in regard to the superintendence of the police over discharged prisoners, *App.* (*Third Rep.*) *p.* 63.

*Ball, Right Hon. Nicholas.* (Analysis of his Evidence.)—Considers that transportation is a punishment which can hardly be dispensed with in Ireland, 3619–3627——A sentence of transportation has a very powerful and peculiarly deterrent effect in Ireland, more especially in the case of those who have families or relatives, 3621–3624. 3652–3657. 3661, 3662——Understands from general report that transportation has frequently been attended with very salutary reformatory effect, 3621. 3624.

Evil of the uncertainty in the mind of the prisoner as to the extent to which sentences may be remitted, 3628–3630. 3635. 3637. 3644——Inexpediency of the uncertainty in the mind of the judge as to what the sentence amounts to, 3628, 3629. 3637. 3659——Great advantage, as a deterrent from crime, of the certainty of punishment under the penal servitude system, 3630. 3644——Expediency, however, of the principle of remission of sentence as a reward for good conduct, 3630.

Suggestion that the judge be empowered to pass a sentence of penal servitude for five years, with the understanding that the prisoner may by good conduct reduce the term to four years, but not further, 3630–3634——Recommended discretion in the judge, without reference to legislation, in regard to intermediate gradations between sentences of four and ten years' penal servitude, 3636, 3637. 3663–3665. 3668——Novelty of the ticket-of-leave system in Ireland adverted to as showing that its effect cannot yet be properly known, 3637. 3642–3648.

Reasonableness of gradation between penal servitude for ten years and for life, 3638–3641——Approval of the principle of Captain Crofton's plan of draughting off the convicts into moveable iron buildings, 3648——Exceptional class of Irish criminals, with whom penal servitude would be more deterrent than transportation, 3650–3658——Propriety of a discretion in the judge to allot sentences, within certain limits, in cases of larceny as well as of more serious crimes, 3666–3669.

*Barrington, Sir Matthew, Bart.* (Analysis of his Evidence.)—Has been Crown Solicitor in Ireland for the Munster Circuit for about forty years, 2327, 2328——Adduces sundry grounds for the conclusion that sentences of transportation, if instantaneously carried out, have, or at least have had, more deterrent and dreaded effects in Ireland than

Reports, 1856—*continued.*

*Barrington, Sir Matthew, Bart.* (Analysis of his Evidence)—*continued.*

sentences of death, 2329–2339. 2353–2356. 2390——Proof of the dread entertained for transportation in the county of Clare, 2329. 2332, 2333. 2382——The instantaneous removal from the dock and from the prison, involving sudden separation from all friends and relatives, is the chief cause of the horror entertained of transportation, 2329. 2332, 2333. 2337–2341. 2353. 2382–2386. 2390.

Similar practice generally in Ireland as in England of carrying out sentences of transportation, 2342, 2343——In some cases of seven years' sentences they have been entirely passed in Ireland, 2344. 2350. 2411–2415——Very rare instances of transports returning to the country, 2352–2389——Witness knows only one instance of a ticket-of-leave man being reconvicted in Ireland since the Act of 1853; 2352. 2362–2365. 2391–2393. 2416——Great importance of retaining transportation as the punishment for those convicted of public disturbances or of serious agrarian crimes, 2356. 2366–2381. 2385. 2394–2396. 2400–2405. 2421.

More dread entertained by agrarian offenders of transportation than of penal servitude at home, 2357–2361. 2367–2371——Approval of penal servitude sentences in the case of ordinary crimes, such as larcenies, 2373–2375. 2385–2388. 2397–2400——Distinction between agrarian offenders and ordinary offenders in regard to the apprehension respectively of transportation and penal servitude, 2373–2377. 2385–2388. 2400–2409. 2421.

Objection to any interference of convict labour with free labour in this country, 2397——Advantage if the return of licensed convicts to any locality were notified to the police, 2416——Difficulty in the employment of some classes of ticket-of-leave men in Ireland, 2418——Ticket-of-leave men who had been convicted of certain agrarian crimes would readily obtain employment, 2419–2420.

*Bavaria.* Official report on the criminal code and system of penal discipline, together with the opinion of the Government as to punishment by transportation, *App.* (*Third Rep.*) *p.* 55–57——Report on the penal system in respect to criminals of the worst order, *ib.* 57–59——The absence of penal colonies has not hitherto been found to be a disadvantage, *ib.* 57.

*Belgium.* Official report on the criminal code and system of penal discipline, together with the opinion of the Government as to punishment by transportation, *App.* (*Third Rep.*) *p.* 51, 52.

*Bermuda and Gibraltar.* The convicts at Bermuda and Gibraltar are under the same conditions as though at Portland and Dartmoor; they are not considered as transported, *Waddington* 19. 25–29; *Elliot* 372–376. 427–430. 451, 452; *Jebb* 1178——There are about 1,200 convicts at Bermuda, *Elliot* 374——There are about 800 at Gibraltar, *ib.* 375——Efforts lately made to improve the discipline at Bermuda and Gibraltar, *ib.* 375——Justification of these convict establishments on account of the importance of the local public works, *ib.* 449–452.

Probable permanence of the demand for convicts in Bermuda and Gibraltar, *Jebb* 1330, 1331. 1369——Selection of convicts for those places by Captain Whitty and witness, *ib.* 1332–1334——Selection of healthy convicts who have the longest terms to serve, *ib.* 1335——Different discipline in Bermuda and Gibraltar and at Portland; the former is about being assimilated to the latter, *ib.* 1337–1342——Probable advantage if the longest sentenced and worst class were sent to Gibraltar and Bermuda, *ib.* 1343, 1344. 1370. 1379–1382——Save at Bermuda and Gibraltar witness does not recommend any penal servitude beyond the seas, *ib.* 1376–1382.

Equal dread of being sent to Bermuda or Gibraltar as to other colonies, *Hill* 1901–1904; *Sir C. Cresswell* 2992, 2993; *Brennan* 3233–3238——Advantage if men liberated at Bermuda had been sent to one of the colonies, *Smart* 2178. 2200——Witness does not class transmission to Bermuda or Gibraltar as actual transportation, or as being equally deterrent with it, *Shepherd* 3181, 3182——Specific sentences should be passed for sending criminals to Bermuda or to Gibraltar, *Lord Campbell* 4023, 4024——Greater dread of a sentence of penal servitude if worked out in Bermuda or Gibraltar than at home, *Elliot* 4042.

*Birmingham.* Calculation that there are a great many ticket-of-leave men in Birmingham who are not known as such to the police, *Hill*, 1790–1793——Reference to a return, (App. Second Rep. p. 159, 160,) showing that in the case of nineteen ticket-of-leave men in Birmingham nine were badly conducted, eight well conducted, and two doubtful, *ib.* 1808, 1809.

*Birmingham Discharged Prisoners' Aid Society.* Particulars relative to a society recently established in Birmingham for the relief of discharged prisoners; success anticipated, *Hill* 1921–1936, and *App.* (*Second Rep.*) *p.* 181–186.

Report of a meeting held at Birmingham on 15 April 1856 to form a local establishment for the relief and employment of discharged criminals, *App.* (*Second Rep.*) *p.* 181–184——

Reports, 1856—*continued.*

*Birmingham Discharged Prisoners' Aid Society*—continued.

184——Speech of the recorder on this occasion urgently advocating the cause of the establishment in question, and referring to the successful operation of similar institutions at home and in foreign countries, *App.* (*Second Rep.*) *p.* 181–184——Rules of the establishment, dated 8 April 1856, *ib.* 184, 185——Letter from the Rev. Mr. Burt, chaplain of the Borough Gaol, to the inhabitants of Birmingham, dated 15 April 1856, urging upon them the necessity of making provision for the relief of persons discharged from the gaol, *ib.* 185, 186.

*Branding.* After a third conviction every criminal should be branded, *Maconochie* 3729.

*Brennan, James.* (Analysis of his Evidence.)—Is Inspector of the G. Division of the Metropolitan Police; has had twenty-five years' varied experience in the force, 3200–3224——Much greater dread entertained by London criminals of transportation than of penal servitude, or of any other punishment short of death, 3225–3244——Increasing number of ticket-of-leave men in the district of Clerkenwell, very few of whom obtain, or endeavour to obtain, honest employment, 3245–3252. 3256–3258. 3289, 3290.

Interference of the police explained as only taking place when the ticket-of-leave men actually commit offences; a general surveillance, however, is very properly exercised, 3253–3256. 3259, 3260. 3267–3273. 3281–3284——Written instructions to the police as to the nature and extent of their surveillance and interference, 3253, 3254. 3273–3280.

Practice of the ticket-of-leave men to destroy their licences or not to carry them, 3261, 3262. 3291, 3292——Means by which witness identifies men as licensed prisoners, 3263–3267——Importance of devising some means for facilitating the employment of licensed prisoners, 3288–3290. 3293–3295——Especially unreformed state of licensed female prisoners; witness does not know of one honestly and respectably employed, 3296–3302.

*Bristol.* Calculation that there are a great many ticket-of-leave men in Bristol who are not known as such to the police, *Hill* 1790–1793——Report of the superintendent of Bristol police as to twenty ticket-of-leave men, *ib.* 1943——Five out of the twenty were convicted of felony, *ib.*

*Brixton Prison.* The Brixton prison, under witness's superintendence, is devoted to women under sentence of transportation or of penal servitude, *O'Brien* 726–728——Since the Act of 1853, 239 female prisoners have been discharged from Brixton with licences, *ib.* 734–737——Much fewer prisoners at Brixton in separate confinement than in association, *ib.* 809, 810——Manner in which association is carried out; architectural arrangements for the purpose, *ib.* 809–822——Association or separate confinement depends on conduct, *ib.* 809. 811.

Occupation of the prisoners in needlework and washing, *O'Brien* 823——Arrangements as to excercise, *ib.* 824–826——Few female prisoners under sixteen years of age, *ib.* 843——Formation of the new system at Brixton prison on the discontinuance of transportation of female convicts to Van Diemen's Land, *Jebb* 1461–1463.

*See* also *Gratuities* (*Prison Labour*).

*Burglary.* Comparatively numerous reconvictions of licensed convicts for housebreaking and burglary, *Shepherd* 3139–3141.

C.

*Campbell, Right Honourable Lord.* (Analysis of his Evidence.)—Laments the change effected in secondary punishments by the Act of 1853; 3961, 3962——For sundry reasons considers transportation to be the best secondary punishment which has yet been invented, 3962. 3973. 4025——A sentence of transportation has a peculiarly deterrent effect, 3962–3964. 3985–3995. 4005. 4007. 4009. 4017–4019——A less effect is produced by a sentence of penal servitude, partly on account of the term penal servitude not being generally understood, 3963, 3964. 3971, 3991, 3992. 4004——Uncertainty in witness's mind as to the manner in which penal servitude sentences are carried out, 3965–3970. 3977, 3978. 4006. 4022.

The best substitution for transportation is a well defined and certain punishment by employment on public works, 3970. 3998, 3999. 4010–4014. 4025——Expediency of continuing transportation if there are colonies in actual want of labour, and in which there may be opportunities for absorption in society and reformation, 3973. 3981–3984. 4008, 4009. 4025——Advantage in the penal part of the sentence being passed in this country, 3974–3976.

Approval of tickets of leave rather than of unconditional release, if transportation be impossible, 3979, 3980——Advantage of a proper police surveillance over licensed prisoners, 3980. 4000——Non-objection to the present arbitrary power in regard to revocation of licence, 4001–4003——Impropriety of passing sentences of transportation if transportation be no longer possible, 4010–4014——Approval of a system of remission of sentence carefully exercised, 4015, 4016——Specific sentences should be passed for sending criminals to Bermuda or Gibraltar, 4023, 4024.

Reports, 1856—*continued.*

*Canada.* Suggestion that together with the ticket of leave, means be provided to carry out emigration to Canada, *Sir A. Alison* 2026–2028.

*Canterbury Settlement.* Great improbability of the Canterbury colony being willing to receive convicts, *Elliot* 486.

*Carpentaria, Gulf of.* Sundry objections to a new penal settlement at the Gulf of Carpentaria; as one result, a nest of pirates would be created, *Elliot* 371. 398–402.

*Casual Offenders.* Returns relative to casual crimes as distinguished from habitual crimes; increase of the former class, *Mayhew* 3478–3487——Beneficial operation of tickets of leave in the case of first offences or casual offenders, *ib.* 3492. 3512. 3561.

*Certainty of Punishment.* Importance of the sentence, whether of transportation or penal servitude, being carried out as intended by the judge, *Jebb* 1316–1318——Expediency of the judges being made thoroughly cognizant of the mode of carrying out the sentences, *Lord Grey* 1690——Certainty of punishment is the great thing that deters from crime, *Sir A. Alison* 2083——Great advantage, as a deterrent from crime, of the certainty of punishment under the penal servitude system, *Right Hon. N. Ball,* 3630. 3644.

Resolution, that full information of any change in the regulations affecting persons under sentence of transportation or penal servitude should from time to time be furnished by the Home Office to the judges, recorders, and chairmen of quarter sessions, *Third Rep. p.* iv.

*Certificate of Character.* Certificate of character given on the discharge with licence, as well as on absolute release, *Jebb* 1072–1075.

*Chaplains.* Frequent communication between the ticket-of-leave men and the chaplains of the prisons, *Waddington* 245, 246——Probable accuracy of the chaplains' observations as to the moral improvement of the prisoners, *Whitty* 969–973——Explanation that the licence is granted altogether irrespectively of the views of the chaplain as to the reformation of the convict, *Jebb* 1076; *Thwaites* 2860–2864——The expediency of the chaplain's opinion affecting the treatment of any convict, *Jebb* 1076.

*Chatham Islands.* Respect in which convict labour might be desirable in these islands, *Walpole* 2535–2538.

*Chatham Prison.* Accommodation for 1,100 convicts in this prison, about to open, *Jebb* 1446.

*Children of Criminals.* Care taken by the Prussian Government of the children of criminals, *De Katte* 3897–3899.

*Clay, Rev. Mr.* Views of Mr. Clay, chaplain of the Preston House of Correction, as to the comparatively slight danger to be apprehended from ticket-of-leave men as compared with ordinarily liberated prisoners, *Jebb* 1064–1066.

*Clerkenwell.* Increasing number of ticket-of-leave men in the district of Clerkenwell, very few of whom obtain, or endeavour to obtain, honest employment, *Brennan* 3245–3252. 3256–3258. 3289, 3290.

*Colebrooke, Sir William.* Importance attached by Sir W. Colebrooke to the adoption of measures for the succour of discharged prisoners, *Jebb* 1145–1147.

*Colonists.* Discontinuance of transportation to New South Wales and Van Diemen's Land through colonial objections, *Waddington* 5–11; *Elliot* 275–284; *Lord Grey* 1682, 1683——Various objections of the colonists to the reception of convicts, *Waddington* 113. 238, 239——Concurrence, after a time, of the colonists in the views of the Select Committee of 1837–38, to which at first they were strongly opposed; *Elliot* 272–274——Local feeling and natural obstacles in several specified colonies against the reception of convicts, *ib.* 291–294. 371. 386 *et seq.*——It seems out of the question, in the face of the colonial dissatisfaction, to create new penal settlements, *ib.* 420. 439–445. 453. 461–468.

Probability that in some colonies where labour is scarce the colonists may, if properly approached on the subject, and under certain concessions, be anxious to receive ticket-of-leave men, *Lord Grey* 1693. 1697, 1698. 1737–1740. 1745, 1746. 1754——Belief that public opinion in the Australian colonies was unduly incensed against the convict system, and that in time there will be a reaction if the advantages of convict labour are brought home to the colonists, *ib.* 1738, 1739. 1745. 1755–1759. 1772–1774——It is not twenty years since the colonists of Van Diemen's Land and New South Wales were strongly opposed to any reduction of the number of convicts, *ib.* 1738——The defects of the system mainly led to the objections to the principle, *Lord Grey* 1738. 1757–1759; *Sir A Alison* 1985. 1990——Belief that proper steps being taken, transportation might again be made popular to the colonies, *Sir A. Alison* 1985. 1989–1991, 2001, 2002. 2061. 2064, 2065.

*See* also *New South Wales. Penal Colonies. Van Diemen's Land. Victoria. Western Australia,* 5. 7.

Reports, 1856—*continued.*

*Communication of Prisoners with their Friends.* Convicts in the intermediate establishments, in Ireland, are not allowed to communicate with their friends, *Crofton* 1578–1580——Expediency of restraining penal servitude prisoners from communicating with their associates and friends outside the prison, *Shepherd* 3148–3154——Amendment suggested in regard to the communication of prisoners with their friends, the present system being very injurious, *Maconochie* 3745–3748.

*Commutation of Sentence.* Grounds upon which it was determined to substitute shorter terms of penal servitude for longer sentences of transportation; explanation as to the terms thus substituted, *Waddington* 18. 123–156. 216——Four years' penal servitude were substituted for a seven years' sentence of transportation; six years for a sentence not exceeding ten years; a term not less than six, nor more than eight years, for a sentence between ten and fifteen years, and penal servitude of ten years for long sentences short of transportation for life, *ib.* 18——There was no intermediate term of penal servitude between ten years and life, *ib.*——Substitution of four years' penal servitude for seven years' transportation adverted to, to the effect that it is a full and fair equivalent, *Waddington* 18. 126–141; *Hill* 1886; *Sir C. Cresswell* 3015–3017; *Sir W. Erle* 3327, 3328. 3332.

The Lord Chancellor, Lord Palmerston, and witness were the principal parties who arranged the substituted sentences and terms, *Waddington* 123–125——Belief that six years' penal servitude is a fair equivalent for ten years' transportation, *ib.* 153–156——Principle adopted as to the period of giving tickets of leave to men under sentence of transportation on the passing of the Act of 1853, *ib.* 157, 158——Power of retaining in penal servitude for periods equal to the sentence of transportation, *ib.* 168——Practically those under sentence for seven years did not generally pass more than three or three years and a half in this country, *Waddington* 207, 208; *Jebb* 1270–1275——Hardship in cases of sentences of transportation if the system of licences were abolished, *Waddington* 240.

Discharge from Parkhurst on licence after three years in the case of a sentence of seven years' transportation, and after four years in the case of ten years' sentence; that is if the conduct be good, *O'Brien* 575–582. 603, 604——Several minimum periods at which, according to the instructions of the Secretary of State, licences are granted to men under sentences of transportation, *Whitty* 870–874——Careful consideration given to the subject of commutation of sentence on the passing of the Act of 1853, *Jebb* 1049, 1050. 1405–1409——Longer actual imprisonment in cases of four years' penal servitude than of seven years' transportation, *ib.* 1270–1277——Abundance of evidence to show that transportation is a less severe punishment than penal servitude, the term being the same in each case, *Hill* 1819——The periods indicated in the Act are, generally, fully equivalent to the corresponding periods of transportation, *ib.* 1886——Opinion that four or eight years' penal servitude at home are, respectively, more severe than seven or fourteen years' transportation, as formerly carried out, *Sir A. Alison* 2029, 2030. 2076–2080.

Strong objection to the fourth section of the Act of 1853, reducing the length of sentences of penal servitude as compared to sentences of transportation, *Lord Grey* 1684–1690——Reason for increasing the sentence, rather than for diminishing it, through the discontinuance of that portion involving banishment, *ib.* 1687——Recommendation that the old length of sentence be resorted to in the case of penal servitude sentences, *Lord Grey* 1688–1690. 1713. 1718. 1721. 1730. 1762, and *App.* (*Second Rep.*) *p.* 195; *Hill* 1819–1825. 1828–1830; *Third Rep. p.* iii——The reason for ten years' penal servitude was partly the objection to send the worst criminals to the colonies, *Lord Grey* 1731.

*See* also *Penal Servitude.* *Remission of Sentence.*

*Conditional Discharge.* See *Tickets of Leave, or Licences to be at Large.*

*Corporal Punishment.* Rare instances of corporal punishment, or of any severe punishment of prisoners on public works, *Jebb* 1202——Corporal punishment of prisoners is rarely resorted to by witness at Wakefield prison; it should be very sparingly used, *Shepherd* 3165–3168——Rare resort to corporal punishment in Prussia, *De Katte* 3890.

*Cost.* See *Expense, &c.*

*Cresswell, The Honourable Sir Cresswell.* (Analysis of his Evidence.)—Considers that sentences of transportation have a far more deterrent effect upon criminals and their friends than any sentences of imprisonment, 2962–2969. 2981–2985. 2995–2997——Expediency of retaining the punishment of transportation as much as possible, 2967–2981——Strong objection to the element of uncertainty introduced into sentences under the Act 16 & 17 Vict. c. 99; 2970–2972. 2977. 2925–3004. 3027–3029. 3038——Uncertainty in witness's mind, in passing sentences of penal servitude, as to the way in which the sentences will be carried out, 2972. 2977. 3000–3003. 3018–3020.

Bar to reformation in any system of short imprisonments, 2972, 2973. 3004, 3005——Advantage of a hope of remission of part of the sentence, provided it be certain that a definite portion, and that the greater portion, of the sentence be strictly carried out, 2973–2976. 2994–2999. 3004–3006. 3021. 3024–3033——Sufficient severity of sentences of

Reports, 1856—*continued.*

***Cresswell, The Honourable Sir Cresswell.*** (Analysis of his Evidence)—*continued.*

of ten years' penal servitude without resorting to longer sentences short of servitude for life 2974. 3007-3014——Greater hope of reformation by transportation than by imprisonment at home, 2975. 2981–2987.

Great importance of any means which may be devised for assisting discharged prisoners to gain an honest living, 2980——Equal severity of two years' imprisonment and hard labour as of a sentence of seven years' transportation, 2983. 3016——Approval of the more penal part of the sentence being passed in this country before the transportation takes place, 2987——Insufficient opportunities hitherto of judging of the actual result of the Act 16 & 17 Vict., 2998–3028. 3044, 3045——Fair equivalent, if duly carried out, of a sentence of four years' penal servitude for a sentence of seven years' transportation, 3015–3017.

Single instance of a conviction before witness in which it was known that the offender was a ticket-of-leave man, 3022, 3023. 3044, 3045——Propriety of leaving the remission of a short portion of the sentence to the discretion of the Secretary of State, 3024–3026——Inexpediency of any specially strict police surveillance in the case of ticket-of-leave men, 3034–3037——Objection to remission of punishment according to a system of taskwork or prison industry, 3038–3043.

***Crime.*** Calculation, founded on the criminal statistics for 1853, 1854, and 1855, that the system of penal servitude and tickets of leave, in lieu of transportation, has not produced any serious increase of crime, *Waddington* 64–109, and *App.* (*First Rep.*), *p.* 180, 181—— In 1853 there were 27,057 committals in England and Wales for indictable offences, and in 1854, 29,359 committals; details hereon, *Waddington* 65 *et seq.*——Increase of six per cent. of crime in Scotland in 1854 as compared with 1853, *ib.* 78, 79——Decrease of crime and committals in England and Wales as between 1855 and 1854, so that the year 1855 assimilated to 1853, *ib.* 78. 83–109——Immense reduction of crime in Ireland since 1848, *ib.* 224–228.

Increased criminality to be apprehended from the system of discharging convicts on tickets of leave, in lieu of sending them to the colonies as heretofore, *Lord Grey* 1762–1769. 1775–1778——Apprehended increase of crime, directly and indirectly, under the system of tickets of leave, *Smart* 2204–2208.

Result of some tables prepared by witness, that for the last ten years or so the amount of crime, with regard to the population, has been stationary, *Mayhew* 3474–3477—— Importance of a distinction between casual and habitual offenders; result of some tables hereon, showing an increase of casual crimes, and a decrease of habitual crimes, *ib.* 3478–3491. 3512. 3561–3582.

Increasing number of aggravated crimes attributed to the present radically wrong system of separate treatment, and of secondary punishment generally, *Maconochie* 3698–3703. 3767. 3780–3794.

*See* also *Education. Homes of Criminals. Instigation to Crime. Locomotion. Prevention of Crime. Revocations of Licences,* 1. *Reconvictions. Short Imprisonments. Tickets of Leave, or Licences to be at Large,* 6. 8. 9. 10. 11.

***Criminal Justice Act.*** Operation of the Criminal Justice Act adverted to; want of information as to the convictions under the Act, *Waddington* 85–101, and *App.* (*First Rep.*) *p.* 181——The Act received the Royal Assent on 14 August 1855, *Waddington* 95, 96.

***Criminal Statistics.*** Excellent system of criminal statistics in France as compared with this country; facility of identification of criminals thereby, *Hill* 1794.

***Crofton, Captain Walter.*** (Analysis of his Evidence.)—Was appointed chairman of the directors of convict prisons in Ireland, under the Act 17 & 18 Vict., in 1854; 1469—— Prostrate state, morally and physically, of the Irish convicts, at the time of the passing of this Act, 1470, 1471——Reports from the Governor of Western Australia, and from the superintendent of convicts in the colony, showing the moral and physical inferiority of Irish convicts sent out in 1854; 1471——Reasons why it has not been thought expedient, till within the last five or six months, to release convicts in Ireland under licence, 1471, 1472. 1487.

Steps first taken by the directors of convict prisons in Ireland to remedy the great overcrowding of the prisons, 1473. 1479——Assimilation, after a time, to the English system of separate confinement and employment on public works, *ib.*——Previously to the Act of 1854 there was no legal authority for the management of the Irish convict prisons, 1474–1478——Separation of the juveniles from the adults adverted to, 1480, 1481. 1486——Construction of a penal reformatory prison at Lusk, near Dublin, for the treatment of a portion of the juvenile criminals, 1480, 1481. 1486.

Explanation as to the measures adopted by the directors for improving the educational departments of the convict prisons; great success attending the same, 1481–1483. 1499——Excellent result through the appointment of two schoolmistresses for the education and moral training of the female convicts, 1484, 1485——System of intermediate establishments at Smithfield, Dublin, and at Fort Camden, Cork, for the preparation of the

Reports, 1856—*continued.*

*Crofton, Captain Walter.* (Analysis of his Evidence)—*continued.*

the convicts before their discharge under licence; details as to the discipline, and the success thereof, 1488–1500.

Inducement to the community to employ licensed prisoners from Smithfield and Fort Camden, 1488. 1497. 1499, 1500——Another establishment near Cork, and another in Dublin, are about to be opened, 1497——Comparative liberty of action before the discharge of the convicts, 1497——System of gratuity in the intermediate prisons, 1497. 1499——Excellent effect of the system of lectures as a means of mental improvement, 1499—— Discharge of twenty-three men from Smithfield and Fort Camden, who have been under licence for more than six weeks, as regards twenty-one of whom the information is most satisfactory, 1499, 1500.

[Second Examination.]—System at the intermediate prisons of using the several officers of the establishment as moral agents, 1502——Total number discharged absolutely, and under licence, from these prisons; the result, so far as it can be ascertained, is most satisfactory, 1502–1506——Further reference to the freedom of action allowed with success to the prisoners at Smithfield before discharge, 1506——Advantage in always keeping a nucleus of well-behaved men at Smithfield, *ib.*——Greater industry than in the case of ordinary prisoners, *ib.*——Importance of small numbers for the sake of individualising, 1506. 1509.

Satisfactory working of the Fort Camden establishment, as well as of that at Smithfield, 1506, 1507——The four intermediate establishments will contain altogether 300 convicts, 1507–1509——Contemplated erection of eight moveable iron buildings, to contain fifty convicts each; peculiar advantages of this scheme, 1509–1519. 1602. 1610 *et seq.*—— The men will be (so to speak) filtered out of these intermediate prisons into the community, 1510–1616.

Contemplated substitute of the system and discipline of intermediate prisons for the system of shortening sentences under licence, 1519–1522. 1585——Exception taken to the practice in England of remission of sentence as an inducement to reformation, 1519 ——Importance rather of a proper system of test, accompanied with a stimulus to good conduct, to be followed by absolute discharge on the due expiration of the entire sentence, 1519–1522——Objection to the ticket-of-leave system in this country, on account of the paucity of employment and the absence of proper supervision, 1520, 1521.

System of earnings proposed as an incentive to good conduct, irrespectively of any remission of sentence, 1522–1525. 1669–1673——Objection to a high rate of earnings in the case both of ill-conducted and well-conducted convicts, as is the practice at Bermuda and Gibraltar, 1522–1524. 1529. 1538. 1559–1664——Advantage of convicts' earnings as a means of emigration, 1522, 1523. 1640–1642. 1670–1673——Proof of the anxiety of convicts to emigrate, 1523–1549——Examination to the effect that the known sufferings of convicts in separate confinement, &c. would prevent any prejudice or wrong feeling in the free labourer, on account of the discharge of the convict with a comparatively large amount of earnings from prison labour, 1524–1547. 1664–1669.

Suggestion that transportation being regarded by convicts as a boon, the best conducted men should be rewarded by being selected for Western Australia, 1548–1556—— In Ireland about 800 convicts are discharged annually, 1551——About 200 selected convicts might be annually deported from Ireland to Western Australia with much advantage to the colony, 1551–1554——There would be about 200 Irish convicts yearly who, as not being reformed or well-conducted, should be sent to Bermuda and Gibraltar, or placed in penal establishments at home, and on their discharge be noted to the police of their localities, 1551. 1556–1565.

About 200 convicts would pass from the intermediate establishments to the colonists as free settlers, 1556——And about 200 would be absorbed in home employment, *ib.*—— System adopted by witness on the discharge of any unreformed convict of noting the same to the local police, 1556–1559——Disapproval of any gratuities in the case of misconducted or unreformed convicts, 1560–1563. 1669, 1670——Anticipated smallness of the number of convicts so criminal as not to be reformed under proper treatment, 1561–1564——Advantage in letting the worst men loose in this country rather than in the colonies, on account of the excellence of our police, 1565.

Female prisoners are numerous in Ireland, but they are not so much of the prostitute class as in England, 1566. 1575, 1576. 1663——Difficulty, but not insuperable, in finding employment for discharged females, 1567, 1568. 1662, 1663——Explanation as to the operation in Ireland of Roman-catholic and Protestant refuges for discharged females, 1568–1573——Ticket of leave under which females are sent to the refuges, 1571–1573——Advantage if a proportion of female convicts could be absorbed in Western Australia, through means of refuges there, 1574–1577.

Convicts in the intermediate establishments are not allowed to communicate with their friends, 1578–1580——In furtherance of witness's plan there should be clear power to send penal servitude men to Western Australia, 1586–1588——Applicability of the system of small intermediate or reformatory institutions, with employment on public works, &c., to England as well as to Ireland, 1589 *et seq.*——Convict labour as proposed,

Reports, 1856—*continued.*

*Crofton, Captain Walter.* (Analysis of his Evidence)—*continued.*

through means of moveable buildings, will not come into any dangerous competition with free labour, 1595–1597. 1602–1609. 1621–1626.

Terms of penal servitude before convicts are sent to the intermediate institutions, 1613——Mild treatment and discipline to be pursued in the moveable buildings, 1617, 1618. 1628–1630——Particular Government employment to which the convicts will be applied, 1619–1622——The establishments may well be maintained by Government, 1627, 1628——Tendency of the public to employ men recommended from the establishments, 1630–1634——Probable advantage of certain private co-operation in the management as a means of furthering the employment or emigration of the men, 1635–1644.

Circumstance of many Irish convicts in Mountjoy prison having suffered very much, about the time of the famine, on account of the separate confinement, which was then longer than it now is, 1647–1660—— Advantage of a system of agricultural employment in carrying out the reformation of Irish convicts; measures contemplated for the purpose, 1653–1659—— Further evidence as to the expediency of gratuities for labour and good conduct, more especially as a means of free emigration, 1664–1673.

D.

*Dalston Refuge for the Destitute.* Failure of an attempted arrangement with the Refuge for the Destitute at Dalston, for the reception of discharged females, and for the disposal of a portion by emigration, *Jebb* 1152, 1153——Reasons for the failure of the negotiation, *ib.* 1447, 1448.

*Dartmoor Prison.* Intention to reduce the number of convicts at Dartmoor to 800, invalids exclusively, *Whitty* 981——Greater labour performed by some convicts than by free labourers, on account of the hope of speedy discharge, *Lord Grey* 1688——The discipline at Dartmoor, which is very excellent, is much dreaded by the prisoners, *Walpole* 2491–2498——Disadvantage in some respects of the system of discipline, *Sir W. Erle* 3333, 3334.——*See* also *Agricultural Labour* (*Convicts*). *Prison Discipline.*

*De Katte, Baron.* (Analysis of his Evidence.)—Is attached to the Prussian Legation; has served in the Home Department of Prussia, 3797–3799——System in Prussia of punishing secondary offences by employment on public works, and, when in prison, in the manufacture of certain articles, which are publicly sold, 3800–3811. 3830–3834. 3870–3875 —— Power, sometimes exercised, of the Home Department partly to remit sentences in consideration of good conduct, 3812, 3813——Practice in regard to the surveillance and interference of the police in the case of discharged prisoners, 3814–3816. 3886, 3887. 3937–3943. 3949–3952.

Explanation as to the operation of philanthropic associations in aiding discharged prisoners to procure employment or to emigrate, and in visiting them in prison, 3816, 3817. 3835. 3900–3924. 3953–3960——Regulations to the effect that the more serious offenders are on discharge obliged to return to their own communes, 3818–3827. 3929, 3930. 3944–3946——Practice of imprisonment in the Zuchthauses in the case of the more serious offenders, 3821–3823. 3840 *et seq.*

Feeling in Prussia as to the want of transportation; reference hereon to a small penal colony formerly which was abandoned, 3836. 3892. 3931–3936——Different periods of imprisonment, embracing imprisonment for life, and different modes of treatment of the more aggravated cases, 3837–3869. 3882——Abandonment of the solitary system as having driven the men mad, 3860–3864——The ticket-of-leave system has not been tried, 3883–3885——Corporal punishment is rarely resorted to, 3890——Some lighter offences are punished by fines, 3891.

Class of habitual criminals for whom transportation would be desirable, 3893–3896 —— Care taken by Government of the children of criminals, 3897–3899——System of instruction in prison, 3925, 3926——Complaints sometimes received in regard to liberated prisoners, 3927–3930——Superintendence of the prisons, and appointment of the prison officers by the governments of the different provinces, 3947, 3948.

*De Metz, M.* Views and experience of M. De Metz in regard to institutions for discharged prisoners, *Hill* 1940.

*Deterrent Punishment:*

1. *Evidence tending to show that Penal Servitude Sentences are more dreaded than Sentences of Transportation.*
2. *Evidence to a contrary purport.*
3. *Question as to rendering Transportation, if continued, more Penal.*
4. *Generally as to Deterrent Punishments, and the Policy thereof.*

1. *Evidence tending to show that Penal Servitude Sentences are more dreaded than Sentences of Transportation:*

Greater dread entertained by the majority of criminals of sentences of penal servitude than of transportation, *Elliot* 422–426; *Whitty* 974–978. 1016, 1017; *Walpole* 2506–2514;

Reports, 1856—*continued.*

*Deterrent Punishment*—continued.

1. *Evidence tending to show that Penal Servitude Sentences, &c.*—continued.

2514; *Mayhew* 3516–3520. 3539–3560——Evidence to the effect that sentences of four years or six years' penal servitude are more dreaded than sentences of seven or fourteen years' transportation, *Jebb* 1192, 1193. 1270–1291. 1346. 1349–1353. 1442, 1443——Comparatively non-deterrent effect of a sentence of transportation, *ib.* 1134–1137. 1161. 1189–1193——Decided preference shown by French convicts for transportation as compared with imprisonment, *ib.* 1220, 1221——As a deterring punishment for this country, transportation has of late years been altogether nugatory, *ib.* 1220.

2. *Evidence to a contrary purport:*

Illustration of the great dread with which transportation is or has been regarded by Scotch convicts, *Sir A. Alison* 2018–2021——The criminal class at Edinburgh have a greater dread of penal servitude than of the corresponding sentence of transportation, *M'Levy* 2303–2306——A sentence of transportation has a very powerful and peculiarly deterrent effect in Ireland, more especially in the case of those who have families or relatives, *Sir M. Barrington* 2329–2339. 2353–2356. 2390; *Right Hon. N. Ball* 3621–3624. 3652–3657. 3661. 3662——Proof of the dread entertained for transportation in the county of Clare, *Sir M. Barrington* 2329. 2332, 2333. 2382——The instantaneous removal from the dock and from the prison, involving sudden separation from all friends and relatives, is the chief cause of the horror entertained for transportation, *ib.* 2329. 2332, 2333. 2337–2341. 2353. 2382–2386. 2390.

Direct evidence for the conclusion that London criminals, both old and young, have a greater horror of transportation than of imprisonment in this country, *Loome* 2576–2594. 2635–2643. 2660–2663. 2680–2683. 2714–2717; *Brennan* 3225–3244——Sentences of transportation have a far more deterrent effect upon criminals generally and their friends than any sentences of penal servitude, *Sir C. Cresswell* 2962–2969. 2981–2985. 2995–2997; *Sir W. Erle* 3303–3306. 3329, 3330. 3343–3345; *Lord Campbell* 3962–3964. 3985–3995. 4005. 4007. 4009. 4017–4019——Thieves by repute have a great dread of transportation, *Thwaites* 2813–2815; *Brennan* 3242–3244.

Proof of the preference of the majority of penal servitude prisoners for sentences of penal servitude as compared with transportation, *Shepherd* 3087–3096——Differently deterrent effect of transportation upon the minds of different classes of criminals; it has been more dreaded generally since the Act of 1853, *ib.* 3087–3092. 3173–3182——At one time transportation was not at all dreaded by a certain class of criminals, *ib.* 3092, 3093. 3176–3179——The intermediate step of penal servitude has made transportation more dreaded than ever, *Shepherd* 3173, 3174; *Brennan* 3232.

To some isolated and habituated criminals transportation is rather a matter of hope than of dread, *Sir W. Erle* 3344, 3345——Peculiar dread entertained of transportation by certain classes of offenders, *Sir R. Mayne* 3360——Exceptional class of Irish criminals with whom penal servitude would be more deterrent than transportation, *Right Hon. N. Ball* 3650–3658——Less effect produced by sentences of penal servitude, partly on account of the term penal servitude not being generally understood, *Lord Campbell* 3963, 3964. 3971. 3991, 3992. 4004——Peculiar dread entertained by the Irish of sentences of transportation, *ib.* 3987.

3. *Question as to rendering Transportation, if continued, more Penal:*

Expediency of rendering transportation more penal than penal servitude, if it continue to be administered as the next punishment to that of death, *Jebb* 1351–1353——Anomaly in applying sentences of transportation to the greater criminals while the more dreaded sentences of penal servitude are applied to the minor offenders, *Hill* 1860, 1861. 1876——Question as to the policy of extending transportation if it be considered a boon as compared with penal servitude, *Walpole* 2558–2560——Transportation, as such, can hardly be made a milder punishment than penal servitude, *Lord Campbell* 4020–4022.

4. *Generally as to Deterrent Punishments, and the Policy thereof:*

Improbability of the precise nature of the sentence being calculated upon before the convict is committed, *Whitty* 1025–1028——Belief that the effect of deterrent punishment generally is over-estimated, *Hill* 1787. 1889, 1890——Comparatively non-deterrent effect of penal servitude or length of imprisonment *per se*, *ib.* 1889–1894——Less dread of late years of imprisonment and solitary confinement, *Shepherd* 3157. 3162——Slight fear among criminals of prison discipline, *Mayhew* 3527. 3528——Witness considers that neither transportation nor penal servitude has any deterrent effect, and that all deterring punishment is a mistake, *Maconochie* 3677–3680. 3700, 3701. 3785, 3786.

*See* also *Agrarian Offences, Ireland. Bermuda and Gibraltar. Commutation of Sentence. Long Imprisonments. Penal Servitude. Prison Discipline. Separate System. Transportation.*

*Diet of Prisoners.* Expediency of such food being given as will merely keep the prisoners from physical suffering, *Mayhew* 3528.

Reports, 1856—*continued.*

*Discharge of Prisoners.* Practice in sending the prisoners from Parkhurst to their homes or to the place of conviction, *O'Brien* 586–602——Practice in sending discharged public works' prisoners to their homes or to their place of conviction, *Whitty* 888–894——The period of discharge is the most critical as regards the danger of relapse into crime, *Hill* 1911, 1912.

*See* also *Employment. Intermediate Establishments. Patronage Societies. Refuges for Discharged Prisoners.*

*Discipline.* See *Prison Discipline.*

*Dread of Punishment.* See *Deterrent Punishment.*

*Dress of Convicts.* Suggested alteration in the prison dress, *Maconochie* 3745.

E.

*Earnings of Prisoners.* See *Gratuities* (*Prison Labour*).

*East Australia.* Grounds for concluding that on the eastern side of Australia the colonists will never be favourable to the reception of convicts, *Elliot* 442.

*Edinburgh.* Ticket-of-leave men on returning to Edinburgh are just as bad as on their first conviction; grounds for this statement, *M'Levy* 2283–2313. 2322. 2326——Six have been sentenced to twenty-one years' transportation, two to fifteen years' transportation, one to transportation for life, and several others have been leading bad lives in different ways, *ib.* 2290–2297——Rare instances previously to the Act of 1853 of transported convicts returning to Edinburgh, *ib.* 2314–2318——Witness knows of only one who is leading an honest life, *ib.* 2319–2322——Circumstance of no information being given to the Edinburgh police of the return of released convicts, *ib.* 2323. 2326——It would be just as well, as regards Edinburgh, to discharge the men unconditionally, *ib.* 2325.

*Education* (*Generally*). Effects of civilization or education rather to increase criminality, *Mayhew* 3532.

*Education of Prisoners.* Explanation as to the measures adopted in Ireland by the directors of convict prisons for improving the educational departments of the prisons; great success attending the same, *Crofton* 1481–1483, 1499——Peculiarly well qualified schoolmasters obtained for the Irish convict prisons, *ib.* 1481–1483——Excellent result through the appointment of two schoolmistresses for the education and moral training of the female convicts, *ib.* 1484, 1485——System of lectures pursued at the industrial establishments at Smithfield, Dublin, and Fort Camden, Cork; successful effect thereof, *ib.* 1499, 1500.

System of instruction in the Prussian prisons, *De Katte* 3925, 3926.

*Elizabeth Fry Refuge.* Useful operation of the Elizabeth Fry Institution for discharged females, *Jebb* 1156; *Hill* 1921. 1937–1939——Witness took a servant from the institution, who served him unexceptionably, *Hill* 1937, 1938.

*Elliot, Thomas Frederick.* (Analysis of his Evidence.)—Is Assistant Under Secretary in the Colonial Department; was appointed in 1847; 267, 268——Foundation of New South Wales in 1784 as a colony specially for the reception of transported convicts, 269, 270——Van Diemen's Land was subsequently founded for a similar object, 270, 271——Strong condemnation of the system of transportation in the report of Sir W. Molesworth's Committee of 1837–38; 272, 273——Concurrence, after a time, of the colonists in the views of the Select Committee, to which at first they were strongly opposed, 272–274.

Active steps taken by the Home Government, in accordance with the recommendations of the Report of 1838; 275–283——Discontinuance in 1840 of transportation to New South Wales, 275——Cessation in 1849 of the transmission of exiles or pardoned convicts to New South Wales in consequence of the dissatisfaction of the colonists, 275–281——Steps previously taken in 1842 by Lord Derby, as Colonial Secretary, for sending large numbers of convicts to Van Diemen's Land; failure of the plan, and great dissatisfaction among the colonists, 282–284.

Contemplated formation by Lord Derby, and subsequently by Mr. Gladstone, of a penal colony in North Australia, 284. 392–397——Suspension by Mr. Gladstone in 1846-47 of transportation to Van Diemen's Land, 285, 286——System subsequently adopted by Lord Grey and Sir George Grey, with comparative success, whereby convicts after undergoing penal treatment at home were sent in limited numbers to Van Diemen's Land, 286–293——Reference to the Report of the Committee of the House of Lords in 1847, as strongly recommending a readoption of transportation, 289–291——Local feeling and natural obstacles in several colonies against the reception of convicts, 291–294. 371. 386 *et seq.*——Discontinuance eventually in 1852, by Lord Derby's Government, of transportation to Van Diemen's Land in consequence of the strong and increasing dissatisfaction of the colonists, 293–305. 389–391.

Since

Reports, 1856—*continued.*

*Elliot, Thomas Frederick.* (Analysis of his Evidence)—*continued.*

Since December 1852, Western Australia has been the only outlet for transports, 306, 307——Stagnant position of this colony which led the colonists, in 1849-50, to apply for convicts, 308-315. 408, 409——Character of the soil and climate, &c., 309, 310——Number of convicts sent to the colony in each of the years 1850-56; the total number is 3,911; 316-334——Inadequate increase of the free population as compared with the increase of convicts, 335-342. 349-353——Anxiety of the colonists for an increased number of transports, 342. 377-385——Expediency of limiting the number, 342. 345.

Suspension by Government of free emigration to Western Australia in consequence of the absence of demand for labour, 342. 354, 355——Unexceptionable conduct in the main of the convicts, 343——They have been employed in building a prison for themselves and on public works, 344. 378——Employment of about 1,000 ticket-of-leave men in private service, 345, 346——State of the colony in 1849 and in 1854; doubt as to any increase of prosperity through the convict system, 348-351——Particulars as to the cost of the convict establishment; total of about 400,000 *l.* in five years, 356-361.

Circumstances under which the demand in Western Australia for convict labour cannot at present be properly supplied from this country, 362-366. 421, 422. 490-492——Legal difficulty in sending convicts to Moreton Bay, as it forms part of the Government of New South Wales, 368——Feeling in Moreton Bay in favour of convicts, 368. 386-388——Impossibility, on account of local feeling or natural disadvantages, of creating an eligible penal settlement in any of the colonies; examination hereon with reference to several colonies, all more or less ineligible for the purpose, 369-371. 386-421. 442-449.

Difficulty in regard to penal settlements on account of the want of females, 371. 411. 497——Evil in sending out any large number of female convicts, 371. 497, 498——Strong objection to the formation of any new settlement on account of the immense expense, 371. 449. 485——The convicts at Bermuda and Gibraltar are under the same conditions as though at Portland or Dartmoor, 372-376. 427-430, 451, 452——There are about 1,200 at Bermuda, 374——And about 800 at Gibraltar, 375——Demand in Western Australia for the labour of convicts on public works, on account of the local expenditure, rather than for the labour of ticket-of-leave men on the assignment principle, 378-382——Doubt as to any large permanent demand for convicts in the colony, 383, 384.

Success of transportation and penal settlements in the event of a large free population and a demand for convict labour, 404. 411, 412——So long as there were suitable colonies for penal settlements transportation was the best secondary punishment that could have been adopted, 404. 420—— Doubt as to any immigration of free settlers and capitalists into any new colony where convicts may be sent, 413, 414——As regards penal settlements in the Falkland Islands, the Hebrides, and other similar places, a penitentiary on such a place as Wandsworth Common would be just as eligible, and less expensive, 415. 421. 510-513.

As other nations have disposed of their criminals without transportation, so witness trusts that this country will ere long find proper means of dealing with its convicts at home, 419, 420——At all events it seems out of the question, in the face of the colonial dissatisfaction, to create new penal settlements, 420. 439-445. 453. 461-488——Greater attention should be paid to means of prevention of crime, 420. 456——The treatment of crime, by means of juvenile reformatories, should be improved, 420. 456-460.

Impression that the majority of convicts prefer transportation to penal servitude at home, 422-426——Importance, in dealing with the question of transportation, of considerations as to the eventual freedom of the convict, 433-438——Justification of the convict establishments at Bermuda and Gibraltar on account of the importance of the public works in those places, 449-452——Failure of attempts to carry out the transportation of juvenile offenders; strong colonial feeling hereon, 461-463. 487-488.

Probability of strong opposition by New South Wales to penal settlements in the neighbouring territories of Moreton Bay or North Australia, 476-484——Great improbability of the Canterbury colony being willing to receive convicts, 486——If the full demand in Western Australia be supplied, there should be sentences of transportation for ten years, 490-492——The original plan of settling Western Australia was altogether faulty, and the colony never throve, 493-495——Reference to an official complaint from Van Diemen's Land as to the large number of paupers and criminals produced by the penal settlement, 496.

Impression that Captain Denham's exploring expedition has no reference to the establishment of a new convict settlement, 499——Reference to the mode in which Prussia and other foreign countries deal with their criminals, 500-504——Circumstance of the transmission of Irish convicts to Western Australia having been discontinued since 1853 on account of their comparative inferiority as artizans, 505-509. 528——Advantage of agricultural labour in this country were compatible with restricted liberty, 514-517 ——Inadequacy

Reports, 1856—*continued.*

*Elliot, Thomas Frederick.* (Analysis of his Evidence)—*continued.*

——Inadequacy of military pensioners as a means of settling a new colony, 518-523 ——Natural obstacles to the colonization of the Falkland Islands, 524-527.

[Second Examination.]—Evidence relative to and extracts from a despatch from Governor Kennedy, dated 21 December 1855, complaining of the incorrigible class of convicts sent to Western Australia, and stating that there is a strong public feeling growing up in the colony upon the subject, 4026-4036. 4046-4054. 4061-4063. 4087-4091. 4095——Schedule adverted to and delivered in (App. Third Rep. *p.* 42-50), containing particulars as to convicts in Western Australia so incorrigible as to be considered ineligible for association with others, 4026. 4031.

Question whether the incorrigible criminals should not be dealt with at home, 4032—— Doubt as to the expediency of the cost of penal establishments abroad, if colonial objections are liable to be held against the reception of convicts, 4032. 4089-4095—— Reference to reports recently received from Bermuda that in the case of the penal servitude men discipline is impracticable, 4037-4040.

Expediency of a system of remission of penal servitude sentences, 4041——Greater dread of a sentence of penal servitude if worked out in Bermuda or Gibraltar, 4042—— Suggestion, in the event of long sentences of imprisonment in this country, that there be a third stage of comparative liberty, in one of the Hebrides, or some such place, 4043-4045.

Evidence relative to a memorial recently received from the West Australian colonists complaining that they are not fairly dealt with in the matter of convict expenditure, 4049-4053. 4055-4060. 4063 *et seq.*——Complaint also by the memorialists that they have not received the promised supply of free settlers, 4055. 4092——Question as to the justice of the complaint of the colonists, that as regards colonial expenses or as regards free emigrants there has been a departure from the original agreement or understanding, 4056 *et seq.*

Doubt as to any material departure from the original plan in Western Australia in regard to local depôts and the dispersion of the convicts, 4064-4067——Large cost in sending out and supporting convicts further adverted to, 4068, 4069——Complaint by the colonists in regard to convicts who are incapable of work and become paupers, 4070-4073——Medical controversy at present whether the penal labour at home incapacitates for subsequent labour in the colony, 4073-4077.

Statement as to the discipline carried out by Governor Kennedy; tendency towards stringent treatment, 4078-4081——Practicability of obviating the objections of the colonists if expense be not considered, 4089-4095——Grounds for concluding that transportation to Western Australia has beeen a failure, as regards benefit to the colony, 4095-4097.

Reference to official documentary information from the principal countries of Europe as to the penal codes therein adopted; an abstract of the same promised to be prepared for the Committee, 4098, 4099.

*Emigration.* Great improvement if the boys from Parkhurst were sent to the colonies as emigrants, *O'Brien* 627——Suggestion that certain measures be adopted through means of voluntary agency, irrespective of Government, to carry out the emigration of well-conducted females under thirty years of age, *ib.* 749-758. 768-780——Expediency and practicability of sending these females to the colonies without any brand upon their character, *ib.* 752-755. 768-772.

Advantage of convicts' earnings in prison as a means of emigration, *Crofton* 1522, 1523. 1640-1642. 1670-1673——Proof of the anxiety of convicts to emigrate, *ib.* 1523. 1549——About 200 out of 800 Irish convicts would, under witness's plan of intermediate establishments, pass from the intermediate establishments to the colonists as free settlers, *ib.* 1556.

Instead of shortening the term in the case of well-conducted prisoners it would be better to teach them trades, and to pay them gratuities as a means of emigration, *Sir A. Alison* 2031-2034——Absence of tendency to crime if criminals be provided with means of emigration under ticket of leave, *ib.* 2032. 2054-2056——Inadequacy of private benevolence as a means of defraying the expense of the emigration of discharged convicts, *ib.* 2069, 2070——Suggested system of emigration through means of houses of refuge, *Thwaites* 2902-2904; *Mayhew* 3590. 3598, 3599.

Impracticability of enforcing the emigration of discharged convicts, *Lord Grey* 1741-1743——Anticipated objection by the United States and other countries to receive our discharged convicts as emigrants, *ib.* 1742, 1743.

*See* also *Canada. Free Emigrants. Gratuities* (*Prison Labour*). *Liberty. Western Australia*, 1. 7.

*Employment.* Evidence in proof of the great difficulties experienced by licensed prisoners in this country in procuring employment, *Waddington* 234-236; *Jebb* 1251, 1252. 1437-1441;

Reports, 1856—*continued.*

*Employment*—continued.

1441; *Smart* 2129–2132. 2176, 2177; *Sir M. Barrington* 2418; *Loome* 2664–2671. 2713–2717; *Thwaites* 2850, 2851. 2854–2859. 2902, 2903; *Brennan* 3293–3295; *Mayhew* 3617, 3618—Valuable co-operation on the part of many magistrates, clergymen, and others in procuring employment for the men, and generally in furthering the system, *Jebb* 1066–1071—Difficulty under the present arrangements in preventing ticket-of-leave men from becoming locally known as such, *ib.* 1251, 1252—If the system be continued steps should be taken to conceal their character as released convicts, *ib.* 1253.

Objection to the ticket-of-leave system in this country on account of the paucity of employment and the absence of proper supervision, *Crofton* 1520, 1521—About 200 Irish convicts might, under witness's system, be absorbed in home employment, *ib.* 1554—Tendency of the public to employ men recommended from the intermediate establishments in Ireland, *ib.* 1630–1634.

Course adopted in order to procure employment for the men on discharge from the "Stirling Castle" hulk; system of correspondence hereon with some party named by the convict, *Thwaites* 2765 2767. 2793–2802. 2882–2885. 2897–2900. 2905. 2953–2955—Some men are liberated on their own showing that they have some prospect of employment, *ib.* 2798–2802—In seeking for employment ticket-of-leave men are very unwilling to apply for it in the place of their conviction, *ib.* 2955.

Urgent importance of any means which may be devised for assisting discharged prisoners to gain an honest living, *Sir C. Cresswell* 2980; *Brennan* 3288–3290. 3293–3295—Great disadvantage of the discharge of prisoners in this country on account of the difficulty in regard to their honest employment, *Sir R. Mayne* 3362–3365. 3449–3458—Granting of tickets of leave only where there is promise of employment, *Mayhew* 3618—Difficulties at present in regard to the employment of discharged prisoners adverted to as removable in time under the mark system; necessity else of transportation or compulsory emigration, *Moconochie* 3748–3756.

Statement by a discharged criminal as to the expediency of facilities for employment, *App.* (*Second Rep.*) *p.* 204.

Resolution that in many cases persons discharged on tickets of leave have relapsed into crime from the difficulty arising, from their former characters becoming known, from procuring or retaining honest employment, a difficulty, however, which applies to all persons once convicted, whether discharged upon tickets of leave or upon the expiration of their sentences *Third Rep. p.* iv.

*See* also *Female Convicts*, 2. *Intermediate Establishments. Juvenile Offenders*, 2. *Moveable Prison. Patronage Societies. Police Surveillance. Refuges for Discharged Prisoners. Wright, Mr.*

*Enforcement of Conditions of Release.* Complaint that the terms of the licence are not acted upon, and that it is not revoked in the event of association with bad characters or of known misconduct, *Hill* 1787, 1788. 1836. 1838–1845—Refusal of the Secretary of State to revoke the licences of men ascertained to be badly conducted in Birmingham, *ib.* 1838, 1839—Reference to a complaint by Mr. Jardine of the misconduct of ticket-of-leave men in the neighbourhood of his court, *ib.* 1840. 1842—Many cases of drunkenness or common assault would justify revocation of licence, *ib.* 1841—Doubt as to its being any one's duty to give information in regard to the misconduct of ticket-of-leave men, *ib.* 1842, 1843.

Copies of two letters from witness to Sir George Grey in February last, relative to the ticket-of-leave men in Birmingham, *Hill* 1943—Custom of witness not to warn ticket-of-leave men, nor to bring them, however ill-conducted, before a magistrate unless there is a specific offence chargeable; there are no instructions to that effect, *Loome* 2886–2889. 2704–2706—Propriety in certain cases of revoking the licence, though a further offence cannot be proved, *Sir W. Erle* 3354–3357—Consideration as to the practice of the Secretary of State not to revoke the licence save on account of a new offence, *Sir R. Mayne* 3371, 3372. 3384–3387. 3459–3470—Objection to the non-enforcement of the conditions endorsed on the licence, *ib.* 3463–3466—Non-objection to the present arbitrary power in regard to revocation of licence, *Lord Campbell* 4001–4003.

Remarks by Mr. Hill in his charge to the grand jury of Birmingham in October 1855, as to the impropriety of not adhering to the conditions set forth on the ticket-of-leave, *App. Second Rep. p.* 188, 189.

Resolution of the Committee, that to render the system of tickets of leave adapted both for the reformation of offenders and the interests of the public, the conditions endorsed upon the tickets of leave ought to be enforced more strictly than appears to have been hitherto the case, *Third Rep. p.* iv.

*England and Wales.* Return delivered in (App. First Rep. p. 182) as regards England and Wales, and explanation thereon, as to the number of persons sentenced respectively

Reports, 1856—*continued.*

*England and Wales*—continued.

to transportation and penal servitude in 1853, 1854, and 1855, *Waddington*, 251, 253—— Statement showing the number and proportion of ticket-of-leave men released in the different counties of England, and in Wales and Scotland, *App.* (*Second Rep.*) *p.* 196.

*Erle, The Honourable Sir William.* (Analysis of his Evidence.)—Value of the punishment of transportation on account of its deterrent effect; it is, generally, far more dreaded than penal servitude, 3303-3306. 3329, 3330. 3343-3345——Value also of transportation as more reformatory in its effect than punishment in this country, 3303. 3307——Desirableness of continuing, and if possible extending, the transportation of criminals, 3307, 3308.

Doubt as to any increase of crime through the ticket-of-leave system; belief that on the whole the system has operated favourably, 3309. 3325——Great importance of a remission of penal servitude sentences as an inducement to amendment, 3310-3314. 3317. 3340-3342——Understanding that sentences of penal servitude have hitherto been carried out without remission, 3310-3313——Evidence strongly opposed to a graduated scale of punishment for defined offences; the extent of the sentence must be left entirely to the discretion of the judge, 3315, 3316. 3318-3324. 3338, 3339. 3346, 3347. 3353.

Mode of carrying out a system of remission considered; approval of a five years' sentence of penal servitude to be remitted, conditionally, to a term of not less than four years, 3317. 3336, 3337. 3340-3342. 3348-3352——Expediency in certain exceptional cases of the exercise of a discretionary power of an unusually large remission, 3317. 3342 —— There is no necessity for a power to pass sentences of penal servitude for less than four years, 3318, 3319. 3331, 3332.

Propriety, in some cases of confirmed crime, of detention for life with associated employment, as at Dartmoor, 3325. 3333-3335——Fair equivalent, in practice, of a sentence of four years' penal servitude for one of seven years' transportation, 3327, 3328, 3332—— Approval generally of the system of tickets of leave, with a power of revocation, 3336. 3352—Propriety, in certain cases, of revoking the licence though a further offence cannot actually be proved, 3354-3357——Objection to original committals being legal on the ground of dishonest living, irrespectively of commission of crime, 3357.

*Exiles.* Colonial dissatisfaction which led to the cessation, in 1849, of the transmission of exiles or pardoned convicts to New South Wales, *Elliot* 275-281——Failure of the plan of sending the convicts abroad as exiles, without restraint, *Lord Grey* 1705, 1706.

*Expense of Transportation* Strong objection to the formation of any new settlement on account of the immense expense, and the liability moreover of colonial objections, *Elliot* 371. 449. 485. 4032. 4089-4095.

Calculation that the gross cost of the combined system of penal servitude and transportation will be 370,750 *l.* annually, and the net cost, after deducting the value of the prisoners' labour, 195,700 *l.*; whereas the gross cost in 1851 of the old system of transportation was 587,294 *l.*, and the net cost 419,476 *l.*, *Jebb* 1138, 1139. 1213-1216. —— Further statement as to the comparative cost of the old system of transportation and the present combined system; corrected estimate of 155,000 *l.* as the cost of the present system, *ib.* 1223-1235——The costs of buildings and land is not included in witness's estimate of the expense of the present system of penal servitude and transportation; slight additional expense on this score, *ib.* 1229-1235.

The expense of a combined system of transportation and Government emigration would be very great, but would be a wise outlay, and would effect a considerable saving in subsequent prison expenditure at home, *Sir A. Alison* 1995-1999. 2006-2008. 2017 ——Large saving in the cost of imprisonments if convicts were transported at an early period of their career, *ib.* 2006-2008.

F.

*Falkland Islands:*

1. *Objections to the formation of a Penal Settlement.*
2. *Evidence in favour of a Penal Settlement.*

1. *Objections to the formation of a Penal Settlement:*

Natural obstacles to the colonization of the Falkland Islands, *Elliot* 524-527—— Difficulty in carrying out a proper system of discipline, *Jebb* 1368——Doubt whether at the termination of a convict's sentence he could be absorbed into the free population, *Hill* 1897——Objections to a penal settlement on account of the locality and size of the islands, *Maconochie* 3757, 3758. 3764. 3769.

2 *Evidence in favour of a Penal Settlement:*

Suggested formation of a penal establishment, so that the wants of ships might be provided for by means of convict labour, *Walpole* 2444-2448. 2522-2527. 2563-2572; *Lord Grey*

Reports, 1856—*continued.*

*FALKLAND ISLANDS*—continued.

1. *Evidence in favour of a Penal Settlement*—continued.

*Grey* 1696, 1697. 1746–1749——Favourable situation of the islands as a resort for shipping, *Lord Grey* 1697. 1746, 1747——Importance of the construction of a dry dock, and the provision of means for repairing disabled vessels, *ib.* 1697. 1746–1749——Nature of the natural resources and capabilities of the islands, *ib.* 1747——Eventually the islands might be settled by released convicts, their families being sent out to them, *Walpole* 2527–2529.

*FEMALE CONVICTS:*

1. *As to their Prison Treatment in this Country.*
2. *Difficulty as regards Employment on Discharge.*
3. *Difficulty as regards their Reformation.*
4. *As to their Transportation to the Colonies.*

1. *As to their Prison Treatment in this Country:*

Peculiar difficulty felt in dealing with the case of female convicts under long sentences, *Waddington* 110, 111. 116——Calculated increase yearly in the number of female convicts to be dealt with, as sentenced to transportation or penal servitude, *O'Brien* 729–733——Great difficulty in the prison management of the worst class of female convicts, 738–744——Incapability, through ill health, of great numbers of female convicts to serve out their full time of penal servitude; official communication hereon from witness to the Home Secretary, dated 11th April 1855, *ib.* 738–747.

Female convicts are sent in the first instance to Millbank Prison in a state of probation, and thence to Brixton Prison, *O'Brien* 781–785—— Official notice, sanctioned by the Home Secretary, to female convicts in regard to their treatment, *ib.* 783. 798, 799—— Doubt as to female prisoners being specially ill-conducted in prison, *Jebb* 1457, 1458.

2. *Difficulty as regards Employment on Discharge:*

Steps taken to prevent the public character of women, as convicts, being injurious to to them when in search of employment in this country, *O'Brien* 748——Great difficulties in the way of the employment of female convicts when discharged in this country, *ib.* 749. 759–762. 847; *Jebb* 1449–1459—— Difficulty, but not insuperable, in finding employment for discharged females, *Crofton* 1567, 1568. 1662, 1663.

3. *Difficulty as regards their Reformation:*

Very frequent instances in which discharged female convicts relapse into crime and are re-imprisoned, *O'Brien* 749–751——The reformation, practically, of many female convicts is almost impossible, *ib.* 749. 751. 759–761. 846–852——Much greater danger of relapsing into crime in the case of discharged females than of males, *ib.* 846–852—— Constant recurrence to prostitution in the case of discharged female convicts, *ib.* 849–852 ——No calculation can yet be formed as to the actual proportion of licensed females who relapse into crime, *ib.* 860–862.

Female prisoners are numerous in Ireland, but they are not so much of the prostitute class as in England, *Crofton* 1566–1575. 1576–1663——Especially unreformed state of licensed female prisoners; witness does not know of one honestly and respectably employed, *Brennan* 3296–3302.

4. *As to their Transportation to the Colonies:*

Great importance of increased facilities for the transportation of female convicts to the colonies, *Waddington* 111–113—— Difficulty in regard to penal settlements on account of the want of females, *Elliot* 371–411. 497——Evil in sending out any large number of female convicts, *ib.* 371. 497, 498——Strong objection to the transportation of female convicts in an unreclaimed state, on account of the objections of colonists and the injury to the colonies, *O'Brien* 750–753. 762–767——Practice formerly duly to carry out sentences of transportation of females, *ib.* 834, 835.

Non-transmission of female convicts to Western Australia, the colonists having objected to them, *Jebb* 1450–1464——Importance if transportation be extended of sending out female convicts, *ib.* 1459, 1460——Advantage if a proportion of female convicts could be absorbed in Western Australia through means of refuges there, *Crofton* 1574–1577 ——Preference of Irish female convicts for transportation as compared with penal servitude at home, *Sir M. Barrington* 2387——Plan suggested whereby female convicts might, with advantage, be sent to the colonies, *Maconochie* 3767.

*See* also *Brixton Prison. Emigration. Fulham Female Refuge. Intermediate Establishments. Patronage Societies. Refuges for Discharged Prisoners.*

*Foreign Countries.* Mode in which Prussia and other foreign countries deal with their criminals, *Elliot* 500–504——Reference to official documentary information from the principal countries of Europe as to the penal codes therein adopted, *ib.* 4098, 4099—— Abstracts of the same, *App.* (*Third Rep.*) *p.* 51–74.

Reports, 1856—*continued.*

*Fort Camden, Cork.* There are eighty-five convicts in the intermediate prison at Fort Camden, *Crofton* 1493——Copy of the rules which govern the establishment, *ib.* 1496, 1497——Modes of employment of the convicts' time, *ib.* 1498, 1499——Satisfactory working of the Fort Camden establishment, *ib.* 1506, 1507.

*Fort Carlisle, Cork.* This intermediate establishment, similar to Fort Camden, has just been opened, *Crofton* 1507.

*France.* Failure of the system in France of releasing certain prisoners and restricting them to districts under close supervision, *Jebb* 1093–1095——Difficulty felt in France in regard to secondary punishment, more especially in the case of juveniles, *ib.* 1175–1177——Peculiar difficulties in France in the way of a system of provisional pardons, *Hill* 1940.

*See* also *Patronage Societies.*

*Free Emigrants.* Expediency in conducting any system of transportation of sending out four or five free settlers for every convict, if necessary, at the public expense, *Sir A. Alison* 1991–2000. 2006–2008. 2017. 2050–2053——The formation of new penal settlements and the construction of public works might, with proper management, draw an ample supply of free settlers at their own expense, *ib.* 1991–1194. 2000–2005. 2017. 2050–2053. 2060–2064——Anticipated proper appreciation by the public in this country as well as by the colonies of a combined system of transportation and free emigration, *ib.* 2051–2056. 2061–2065.——*See* also *Western Australia*, 7.

*Free Pardons.* Frequent applications from the colonies for free pardons; these did not come generally from the working-class convicts, *Lord Grey* 1687. 1765, 1766.

*See* also *Absolute Discharge.*

*Fulham Female Refuge.* Reference to the recent establishment, through Colonel Jebb, of a female penitentiary at Fulham, *Waddington* 116, 117——Intention, about being carried out, to send well-conducted females from Brixton to the institution at Fulham, where they are to receive industrial training before discharge, *O'Brien* 782, 783. 786–790——Information as to the Fulham Institution; particulars can best be supplied by Colonel Jebb, *ib.* 787–797. 827–829.

Formation of the Refuge at Fulham with a view to the reception of the better conducted females, and as a recommendation to their employment by the public, *Jebb* 1150–1152. 1156. 1164–1167——Slightly penal character of the institution, *ib.* 1152–1164——The institution is about to commence operations; before the end of the year it will accommodate about 180 females, 1152–1154. 1170–1174——Previous discipline at Brixton and at Millbank before transmission to the Refuge, *ib.* 1155, 1156. 1166——Views of Mrs. Martin and Mr. Moran, of Brixton prison, in approval of the Refuge, *ib.* 1156——Approval of tickets of leave being granted to females discharged from Fulham, *ib.* 1168, 1169.

G.

*Gibraltar.* See *Bermuda and Gibraltar.*

*Glasgow.* Previously to the Act of 1853 the partial abandonment of transportation had led to very bad results as regards Glasgow, *Sir A. Alison* 1957——Number of ticket-of-leave men re-convicted in Glasgow in each year since 1852, *ib.* 1958——Practice to retain transports in Glasgow prison for a short time only previous to their being sent to England, *Sir A. Alison* 1961. 2032. 2035, 2036. 2042–2044; *Smart* 2146, 2147——Increase of crime in Glasgow up to the time of the war, since which there has been a decrease, *Sir A. Alison* 1983, 1984. 2073, 2074——Insufficient size of Glasgow prison to admit of reformatory discipline, *ib.* 2036–2038. 2040, 2041.

The substitution of imprisonment and ticket of leave for transportation has operated very unfavourably in Glasgow, *Smart* 2098 *et seq.*; *Hart* 2216–2228. 2268——Frequent instances of ticket-of-leave men in Glasgow who were previously strangers to the place; the great majority, however, were convicted there, *Smart* 2103. 2173, 2174——Probable number of ticket-of-leave men in Glasgow; about a fourth of the entire number, since 1853, have been reconvicted, *ib.* 2105, 2106. 2156–2166. 2186——Case of a ticket-of-leave man, named Muir, recently reconvicted at Glasgow, *ib.* 2116–2122——Slight hope of reformation in the class of convicts transported from Glasgow, *ib.* 2145——Operation of the Glasgow Reformatory School adverted to, *ib.* 2177.

*Gold Fields, Australia.* Great obstacles presented by the gold discoveries to the progress of Western Australia, *Lord Grey* 1746–1760——Effect of the gold regions in rendering transportation less deterrent, *Hill* 1902——Inexpediency of sending transports to the immediate neighbourhood of the gold fields, *Sir A. Alison* 2093, 2094.

*Good Hope, Cape of.* Strong opposition of the colonists to a convict establishment, *Elliot* 292.

Reports, 1856—*continued.*

*Governors of Prisons.* Special education and qualifications advisable in governors of prisons, *Maconochie* 3745.

*Gradation of Punishment.* Approval of there being no intermediate term between a sentence of penal servitude for 10 years, and a sentence for life, *Waddington* 18. 148–153; *Sir C. Cresswell* 2974. 3007–3014——Latitude to the judge in regard to the term of penal servitude, in lieu of sentences to transportation for fifteen years and upwards, *Waddington* 18. 142, 143——Want of an intermediate sentence between two years' imprisonment and four years' penal servitude, *ib.* 144, 145.

Practice previously to 1851 to pass from moderate sentences of imprisonment to sentences of seven and ten years' transportation, *Jebb* 1044——More just gradation of punishment if there were more sentences for moderate periods of imprisonment, *ib.* 1130–1133——Inadequacy of the sentence of ten years' penal servitude as the severest punishment short of death, *Lord Grey* 1731–1733——Probable improvement if there were power to pass shorter sentences of penal servitude, *Hill* 1908——Equal severity of two years' imprisonment and hard labour as of a sentence of seven years' transportation, *Sir C. Cresswell* 2983–3016.

Evidence strongly opposed to a graduated scale of punishment for defined offences; the extent of the sentence must be left entirely to the discretion of the judge, *Sir W. Erle* 3315. 3316. 3318–3324. 3338, 3339. 3346, 3347. 5353——There is no necessity for a power to pass sentences of penal servitude for less than four years, *ib.* 3318, 3319. 3331, 3332——Recommended discretion in the judge, without reference to legislation, in regard to intermediate gradations between sentences of four and ten years' penal servitude, *Right Hon. N. Ball* 3636, 3637. 3663–3665. 3668——Reasonableness of gradation between penal servitdue for ten years and for life, *ib.* 3638–3641——Propriety of a discretion in the judge to allot sentences within certain limits in cases of larceny, as well as of more serious crimes, *ib.* 3666–3669——Advantage of power to punish for the same offence according to certain degrees of aggravation, *Maconochie* 3778.

Resolution that the scale of secondary punishment would be more complete if a shorter period of penal servitude than any now in force were enacted, as an intermediate sentence between the present term of ordinary imprisonment now usually inflicted, and the former sentence of seven years' transpotation, or its equivalents, *Third Rep. p.* iii.

*See* also *Life Sentences.*

*Gratuities (Prison Labour).* Scale and mode of payment of gratuities, as laid down in January last, to convict juvenile offenders discharged with licences, *O'Brien* 559, 560. 583, 584. 597, 598. 618–626; *Jebb* 1072——Payment of part of the convict's gratuity by post-office order at the place of destination of each prisoner, *O'Brien* 560. 597–599; *Whitty* 888. 894——Total of 12,369*l.*, or at the rate of 6*l.* 2*s.* 9*d.* each, paid in gratuities in one year for work done before discharge, *O'Brien* 561–566——Practice as to the scale of payment of gratuities at Parkhurst, *ib.* 583, 584. 597, 598. 605–607. 618–626——Particulars as to the gratuities to female convicts at Brixton, and the mode of payment of the same, *ib.* 748——Allotment of earnings to prisoners on public works upon character as well as upon industry; different amounts awarded, *Whittey* 896. 979, 980.

Evidence as to the expediency of gratuities for labour and good conduct, more especially as a means of free emigration, *Crofton* 1522–1525. 1640–1642. 1664–1673——System of earnings proposed as an incentive to good conduct, irrespectively of any remission of sentence, *ib.* 1522–1525. 1569–1573——Objection to a high rate of earnings in the case both of ill-conducted and well-conducted convicts, as is the practice at Bermuda and Gibraltar, *ib.* 1522. 1524. 1529. 1538. 1559. 1664.

Examination to the effect that the known sufferings of convicts in separate confinement, &c., would prevent any prejudice or wrong feeling in the free labourer on account of the discharge of the convict with a comparatively large amount of earnings from prison labour, *Crofton* 1524–1527. 1664–1669——Distinction should be made between the earnings of the good and bad, *ib.* 1524. 1529——By the end of four years the convict might earn about 15*l.*, *ib.* 1525——Disapproval of any gratuities in the case of misconducted or unreformed convicts, *ib.* 1560–1563. 1669, 1670.

System of giving post-office orders payable at their destination adverted to as being easily evaded, *Thwaites* 2906, 2907——Improvement if instead of a certain sum being at once given to the ticket-of-leave man the same amount were paid to him in weekly instalments by the local authorities, *Shepherd* 3211.

*Grey, Right Hon. Earl.* (Analysis of his Evidence.)—Was Secretary of State for the Colonies from July 1846 till the beginning of 1852; 1675——In 1846 New South Wales was practically the only colony open to the reception of convicts, 1676——Transportation to Van Diemen's Land, in suspension in 1846, was resumed subsequently to that period, 1676, 1677. 1699–1700——Amended system of transportation shortly after witness's accession to office; the penal part of the sentence was passed in this country,

Reports, 1856—*continued.*

*Grey, Right Hon. Earl.* (Analysis of his Evidence)—*continued.*

and the remainder under ticket of leave in the colonies, 1678, 1679. 1703–1705——Tickets of leave had been previously in use in the colonies for many years, 1680——Excellent working of the system as regards the reformation and value of the labour of the convicts, who in fact were more useful and were more prized by the colonists than free labourers, 1681. 1738——Discontinuance of the system through colonial objections, 1682, 1683.

Strong objection to the fourth section of the Act of 1853, reducing the length of sentences of penal servitude as compared to sentences of transportation, 1684–1690——Absence of incentive to industry or good conduct under the system of penal servitude sentences, 1687, 1688. 1692. 1711, 1712——Reason for increasing the sentence rather than for diminishing it, through the discontinuance of that portion involving banishment, 1687——Deterrent effect of banishment, though as an escape from imprisonment and labour it may be regarded as a boon, 1687——Frequent applications from the colonies for free pardons; these did not come generally from the working class of convicts, 1687. 1765, 1766.

Recommendation that the old length of sentence be resorted to in the case of penal servitude sentences, 1688–1690. 1713. 1718. 1721. 1730. 1762——Ruin of prison discipline and efficiency if the mere fear of punishment and not the remission of sentence be the inducement to good conduct, 1688, 1689. 1711, 1712——Cause of the failure of Captain Maconochie's task system, as tried at Norfolk Island, 1688——Great importance of a remission of sentence as an inducement to and a reward for industry and reformation, 1688. 1708. 1711. 1712. 1762.

As a relaxation of sentence, there should be power to send any convict to some colony with a ticket of leave, 1690, 1691. 1727, 1728. 1753——Expediency of the judges being made thoroughly cognizant of the mode of carrying out the sentences, 1690——Improvement if the ticket-of-leave holder were allowed to go to any part of the Queen's dominions, 1691——Demand in Western Australia for more convicts than are now sentenced to transportation; this demand may, by a proper policy, be made to increase, 1691. 1693. 1696. 1737. 1744–1746. 1755–1770, 1771.

Inexpediency of forming a new penal colony, not only on account of the great expense, but because of the want of free settlers to employ the convicts, and to associate with them, 1693. 1696. 1740. 1746——Probability that in some colonies, where labour is scarce, the colonists may, if properly approached on the subject, and under certain concessions, be anxious to receive ticket-of-leave men, 1693. 1697, 1698. 1737–1740. 1745. 1746. 1754——Somewhat precipitate abandonment of the system of assignment in the colonies, 1693, 1694. 1757–1759. 1774——Sundry objections to that portion of the sentence passed in the colonies being in any way penal, 1696. 1727–1729. 1753——Suggestions with a view to the extension of the small penal establishment in the Falkland Islands, 1696, 1697. 1746–1749.

Exceptions to the rule, previously to the discontinuance of transportation, of sending all men under seven years' sentence to the colonies, 1701, 1702——Failure of the plan of sending the convicts abroad as exiles, without restraint, 1705, 1706——Objection to unconditional release in this country after the termination of the severer part of the sentence, 1707——It was partly owing to a suggestion of witness that licences at home were adopted, *ib.*——Difficulty in applying tickets of leave to short sentences of penal servitude, 1708——Further experience required in regard to the operations of tickets of leave in this country, though hitherto the result is, on the whole, very encouraging, 1708–1710.

Expediency, in the case of reckless convicts, of the whole sentence being passed in penal servitude at home, 1714–1717——In reverting to the scale laid down in 1847, it would be desirable, where a ticket of leave cannot be granted in the colony, to defer for a short time the period at which it is granted at home, 1718–1720. 1724–1736——Suggestion that sentences of transportation be entirely replaced by sentences of penal servitude, the Secretary of State having power to mitigate the sentence by a certain period under licence in this country or the colonies, 1721–1730. 1752, 1753——Doubt as to any inconvenience or undue uncertainty in regard to the ticket of leave being granted by the Crown either in the colony or at home, 1723–1726. 1752. 1734–1736.

Inexpediency of foregoing the advantage of sending convicts to Western Australia in proportion to the demand, 1747. 1769–1771——Inadequacy of the sentence of ten years' penal servitude as the severest punishment short of death, 1731–1733——In some extreme cases it might be desirable to keep criminals under restriction during their lives, 1732, 1733——Belief that public opinion in the Australian colonies was unduly incensed against the convict system, and that in time there will be a reaction if the advantages of convict labour are brought home to the colonists, 1738, 1739. 1745. 1755–1759. 1772–1774.

Impracticability of enforcing the emigration of discharged convicts, 1741–1743——Approval generally of a return to the former colonial regulations with respect to ticket-of-leave holders, 1744——At first it might be desirable to send the convicts from the depôt to those settlers only who apply for them, 1745——Instances afforded by New South Wales

and

Reports, 1856—*continued.*

*Grey, Right Hon. Earl.* (Analysis of his Evidence)—*continued.*

and Van Diemen's Land of the successful development of colonial resources by means of convict labour, 1746. 1760.

Great obstacles presented by the gold discoveries to the progress of Western Australia, 1746-1760——Objections to a penal settlement in the North American colonies, 1750, 1751——Probability of a demand for convict labour by the free settlers in Moreton Bay, if it be constituted into an independent settlement, as it ought to be, 1754. 1761——Any dissatisfaction in New South Wales should not prevent convicts being sent to Moreton Bay, if a separate colony, 1760, 1761.

Increased criminality is to be apprehended from the system of discharging convicts on tickets of leave, in lieu of sending them to the colonies as heretofore, 1762-1769. 1775-1778——Small proportion of transported convicts who have returned to this country, 1764-1766——Every effort should be made to extend the means of transportation, 1769——Demand for convict labour in Western Australia independently of the Government expenditure, 1770——Importance of an extension of the reformatory system in this country, 1777——Undue public alarm now felt in regard to the holders of tickets of leave, 1778.

*Grey, Right Hon. The Earl.* Letter from Earl Grey to the Chairman of the Committee, dated 5 June 1856, suggesting amendments in the penal servitude system and enclosing a sketch of an Act of Parliament, which is recommended to be passed without delay, *App.* (*Second Rep.*) *p.* 195.

Witness concurs almost entirely in the views of Lord Grey, *Hill* 1895.

## H.

*Habitual Offenders.* Great importance of distinct treatment in the case of habitual offenders, *Mayhew* 3478 *et seq*——Statement showing an increase of habitual crime of late years, *ib.* 3483-3487——Danger in indiscriminately entrusting habitual offenders with tickets of leave, *ib.* 3492. 3512-3515——Habitual offenders of from fifteen to twenty-five years of age are especially difficult of reformation, 3492. 3586-3592——Local and hereditary character of habitual crime, *ib.* 3501. 3579-3582——Possibility of reforming many of the habitual class of offenders, *ib.* 3573-3575.

Class of habitual criminals in Prussia for whom transportation would be desirable, *De Katte* 3893-3896.——*See* also *Incorrigible Criminals.*

*Hanover.* Sundry regulations in regard to the assistance or superintendence of discharged prisoners, *App.* (*Third Rep.*) *p.* 59-61.

*Hanse Towns.* Official reports on the criminal code and system of penal discipline in Hamburgh, in Lubeck, and in Bremen, *App.* (*Third Rep.*) *p.* 63, 64.

*Hart, William.* (Analysis of his Evidence.)—Procurator Fiscal of the Sheriff Court of Lanarkshire, at Glasgow; has had considerable experience in criminal jurisdiction, 2209-2215——Considers that the substitution of imprisonment and tickets of leave for transportation has operated very unfavourably in Glasgow, 2216-2228. 2268——Frequent instances of reconvictions of ticket-of-leave men at the several circuits attended by witness since the Act of 1853; details hereon, 2221-2267. 2270-2274.

When sentences of transportation were duly carried out, as before the Act of 1853, a convict was rarely tried a second time in subsequent years, 2221. 2278, 2279——Means of ascertaining whether a prisoner is a ticket-of-leave man, 2242. 2245-2248. 2275-2277——Evil in the local authorities not receiving any intimation of the return of released convicts, 2268——Crime consequent upon association with ticket-of-leave men, 2269.

*Harvey Bay.* Reference to the relinquishment of the idea of forming a penal colony in Harvey Bay, *Walpole* 2533, 2534.

*Hebrides.* If transportation be impracticable one of the islands in the Hebrides, such as Islay, should be allotted to convicts, and cultivated by spade labour, *Sir A. Alison* 2009. 2024, 2025. 2034. 2066, 2067——The proper men to send to a penal establishment in one of the Scotch islands are those who are least depressed, and whose habits of rural industry are most confirmed, *ib.* 2090-2092.

*Highlands, Scotland.* Witness would gladly approve of convict labour in the Highlands of Scotland if the land was properly reclaimable, *Sir A. Alison* 2071——Suggestion as to the employment of convicts on waste land in Scotland before transportation or emigration, *Smart* 2151.

*Hill, Matthew Davenport,* Q. C. (Analysis of his Evidence.)—Has been Recorder of Birmingham since 1839; is also one of the Commissioners of Bankruptcy for the Bristol district, 1779-1782——Considers that the Act 16 & 17 Vict. has worked well, and in

Reports, 1856—*continued.*

*Hill, Matthew Davenport,* Q. C. (Analysis of his Evidence—*continued.*

fact better than he had anticipated, 1784–1787. 1817——A large portion of the public are unfavourable to tickets of leave on the erroneous ground that they are a substitute for imprisonment, 1787–1789——Transportation being impracticable, licences at home in lieu of absolute discharge cannot act injuriously, 1787–1789——It would be better if the conditions endorsed on the ticket of leave were practically enforced, 1787, 1788.

The advantages of the Act have been unduly magnified, inasmuch as most probably great numbers are reconvicted without identification, or are living dishonestly, 1787. 1790. 1811. 1816——Considerate manner in which the Birmingham police act towards ticket-of-leave men, 1790–1800——Calculation that there are a great many ticket-of-leave men in Birmingham who are not known as such to the police, 1790–1793——Similar calculation as regards Bristol, *ib.*

The want of surveillance is not so much an evil as the want of means of identification; suggested remedy of this want by means of photographic likenesses, 1794–1800——Care taken by ticket-of-leave men to conceal their antecedents, 1801, 1802——Facilities afforded by railways for the furtherance of thievish propensities, 1802, 1803——The prejudice on the part of the public against the employment of discharged prisoners is rapidly disappearing, 1804–1807——Reference to a return (App. Second Rep. p. 159, 160), showing that in the case of nineteen ticket-of-leave men in Birmingham, nine were badly conducted, eight well conducted, and two doubtful, 1808, 1809.

Reliable statistics at the Mettray institution for juvenile offenders, who after their discharge relapse in the proportion of at least ten per cent., 1811. 1813. 1816——Practice adopted by witness with considerable success during the last fifteen years, immediately to discharge the less hardened juvenile and adult offenders, placing them under guardians, 1811, 1812. 1814–1816.

Classification, discipline, and other particulars relative to the State Prison at Munich, as shown in the answers by M. Obermaier, governor of the prison, to questions forwarded to him by witness, 1816. 1882, 1883; and *App.* (*Second Rep.*) *p.* 168–171.

Approval of the principleof the Act in 1853 in enabling the prisoner to shorten his sentence by good conduct, 1818——Approval also of the principle that the liberty of the convict discharged before his term is conditional on good behaviour, *ib.*——Concurrence in Lord Grey's views that there is no just ground or reason for making the term of penal servitude less than the corresponding term of transportation, 1819–1825. 1829——The fourth section should in fact be struck out, 1820. 1828. 1830.

Equal claim, legally, to a ticket-of-leave in the case of a sentence of penal servitude as of transportation, 1821, 1822. 1872, 1873. 1884, 1885——Strong objection to any diminution of the time over which a licence holds a discharged prisoner in check, 1821. 1824, 1825——Where there is no reformation the whole term should be passed in penal imprisonment, 1826, 1827. 1887——In fact, without reference to the sentence witness is an advocate for the general principle that release should not be granted till there was sign of amendment, 1826, 1827. 1878–1883.

Concurrence in the proposition for the abandonment of sentences of "transportation," 1829. 1905–1908——Benefit to the colonists in the transportation under licence, of men reformed during penal servitude at home, *ib.*——The licence should be extended to the whole of the Queen's dominions, but no further, 1831——Expediency of amended regulations so as to give the discharged convict an opportunity of showing cause why his licence should not be revoked, 1832–1836. 1854–1858.

Probable advantage if the investigation relative to revocation of licence were conducted by a magistrate instead of by the authorities of the Home Department, 1832, 1833. 1844. 1853——Very rare instances in which at present the revocation of the licence is anything more than a form, 1834, 1835. 1845——Complaint that the terms of the licence are not acted upon, and that it is not revoked in the event of association with bad characters or of known misconduct, 1836. 1838–1845.

Doubt as to its being any one's duty to give information in regard to misconducted ticket-of-leave men, 1842, 1843——Practice suggested in carrying out the inquiry into revocation of licence, &c., 1846–1858——Anomaly in applying sentences of transportation to the greater criminals, while the more dreaded sentences of penal servitude are applied to the minor offenders, 1860, 1861. 1876——Penal servitude men should not be debarred the privilege of a ticket of leave, 1861. 1876——Main importance of the stimulus of hope as a means of reforming prisoners, 1861, 1862. 1876.

Suggestion that all regulations by the Home Office with regard to the mitigation of sentences and general prison treatment be only communicated to judges, recorders and magistrates, 1863–1865. 1875——Explanation as to witness having for two years read the Act as though tickets of leave were to be granted in the case of penal servitude sentences; he cannot be accused of any mistake or misapprehension in the matter, as inferred by Mr. Waddington, (Q. 241, 242), 1865. 1871–1875. 1884, 1885——Particulars as to 159 sentences passed by witness having been subsequently mitigated to one-third of their length; correspondence between witness and the Home Office which lead to such mitigation, 1865–1871, and *App.* (*Second Rep.*) *p.* 175–181.

Evidence

Reports, 1856—*continued.*

*Hill, Matthew Davenport,* Q.C. (Analysis of his Evidence)—*continued.*

Evidence showing the pernicious effects of short imprisonments; there is in fact no time for reformatory action, 1876. 1880. 1888——Approval of the system of treatment by task work, as advocated by Captain Maconochie, 1876. 1909, 1910——Regret that trial has not been made of Mr. Pearson's proposition for making prisons self-supporting, 1877——Imprisonment for life in certain cases is not only desirable in principle, but is perfectly practicable, 1878–1883.

The periods indicated in the Act are fully equivalent to the corresponding periods of transportation, 1886——Sentences for secondary punishments generally are less severe than they ought to be, 1887–1889——Comparatively non-deterrent effect of penal servitude or length of imprisonment *per se*, 1889–1894——Witness concurs almost entirely in the views of Lord Grey, 1895——Concurrence in his opinion that the penal portion of sentences of transportation should be passed at home, and that transportation under tickets of leave should follow merely for the purpose of reformation, 1896–1900. 1906.

To whatever colony a convict may be transported, the sentence has the same amount of deterrent effect, 1901–1904——Effect of the gold regions in rendering transportation less deterrent, 1902——Probable improvement if there were power to pass shorter sentences of penal servitude, 1908.

The period of discharge is the most critical as regards the danger of relapse into crime, 1911, 1912——Suggestions as to the kind of institution most desirable to meet the case of discharged prisoners, 1913 *et seq.*——Approval of Captain Crofton's suggestion for allowing liberty and freedom of action before discharge, 1914——Successful operation of *sociétés de patronage*, conducted on the voluntary principle, in France, Bavaria, Tuscany, and the United States, 1914–1920——Failure of *sociétés de patronage* in Austria, because they were undertaken by Government, 1915, 1916.

Useful operation of the Elizabeth Fry Institution for Discharged Females; illustration of this, 1921. 1937–1939——Particulars relative to a society recently established at Birmingham for the relief of discharged prisoners; success anticipated, 1921–1936; and *App.* (*Second Rep.*) *p.* 181–186——Success of the plan of sureties adopted by Mr. Wright, of Manchester, for obtaining employment for discharged prisoners, 1926–1929——In furthering emigration, and in numberless other ways, the proposed voluntary societies for succouring discharged persons would be most efficacious, and without any great expense, 1931–1935.

[Second Examination.]—Explanation that there are no *sociétés de patronage* for male adults in France, 1940. 1944, 1945——Peculiar difficulties in France in the way of a system of provisional pardons, 1940——Views and experience of M. de Metz in regard to institutions for discharged prisoners, *ib.*——Witness lays before the Committee (App. Second Rep. p. 186–190) the charge delivered by him at the October sessions of 1855 to the grand jury of Birmingham, upon the subject of tickets of leave, 1941——Objection to the present system whereby the principle of time is mainly observed relative to the discharge of ticket-of-leave men, 1941–1943.

Further evidence in favour of Capt. Maconochie's plan of task-work as the inducement to good conduct, 1941. 1943——Copies of two letters from witness to Sir George Grey in February last, relative to the ticket-of-leave men in Birmingham, 1943——Report of the superintendent of Bristol police as to twenty ticket-of-leave men, *ib.*——The proposed societies of patronage would be equally useful in the case of provisional as of absolute discharges, 1946–1950.

*Homes of Criminals.* Injurious effect upon the character and conduct of boys through the immoral and wretched state of their homes, *O'Brien* 634–639.

*Hudson's Bay Company's Territories.* The climate and the expense form powerful arguments against a penal settlement, *Elliot* 418.

*Hulk System.* Expediency of the hulks being given up; they are, in fact, in course of abandonment, *Whitty* 923–928. 984–988 —— Reformation through the public works system as contrasted with the demoralisation through the hulk system, *Jebb* 1203, 1204 ——Great importance of abandoning the hulk system, which is most mischievous and demoralising, *Thwaites* 2865–2880. 2938–2945——Much worse discipline in hulks than in prisons on land, *ib.* 2944, 2945——Advantage if the hulk system were abolished, *Sir R. Mayne* 3401–3404.

Resolution of the Committee, that the hulk system, which appears to be already in a great measure relinquished, should be finally abandoned, with as little delay as possible, *Third Rep. p.* iii.

*See* also "*Stirling Castle*" *Hulk.*

I.

*Identification of Ticket-of-leave Men.* The want of surveillance is not so much an evil as the want of identification; suggested remedy of this want by means of photographic likenesses,

Reports, 1856—*continued.*

*Identification of Ticket-of-leave Men*—continued.

likenesses, *Hill* 1794–1800——Use by Capt. Gardiner, of Bristol gaol, of a photographic apparatus for recording the likeness of each prisoner, *ib.* 1794. 1943——Copies can be produced for 6*d.* each, *ib.*——The photographic likeness should be regarded merely as a clue to inquiry, and not as evidence, *ib.* 1797, 1798——Care taken by ticket-of-leave men to conceal their antecedents; difficulty in identifying them, *ib.* 1801, 1802; *Sir A. Alison* 1959. 1963, 1964.

There should be a staff of detectives to go from place to place to identify ticket-of-leave men before reconviction, *Sir A. Alison* 2025. 2034——Frequent instances of unduly light sentences, through previous convictions not being known, *ib.* 1959. 2025——Means of discovering ticket-of-leave men out of prison; difficulty on the subject, *Smart* 2104. 2112–2116; *Brennan* 3263–3267——Practice of liberated convicts to destroy the licket of leave, which they look upon as injurious, *Smart* 2112–2114. 2184, 2185; *Loome* 2746–2753; *Brennan* 3261, 3262. 3291, 3292; *Sir R. Mayne* 3429, 3430——Means of ascertaining whether a prisoner is a ticket-of-leave man, *Hart* 2242. 2245–2248. 2275–2277; *Shepherd* 3062–3079——Objection to the ticket-of-leave system as inducing offenders to change their names, *Shepherd* 3124–3132.

Instances in which the tickets of leave have been shown to witness; description of the document, *Loome* 2597. 2602–2617——Doubt as to the precise distinction between a ticket of leave and a conditional pardon, *ib.* 2614–2617. 2649–2654.

Dread of the police, which induces ticket-of-leave men, however well disposed, to destroy their licences, *Mayhew* 3499, 3500. 3612–3614.

*Imprisonments.* See *America.* *Commutation of Sentence.* *Deterrent Punishment.* *Gradation of Punishment.* *Life Sentences.* *Long Imprisonments.* *Penal Sentences.* *Separate System.*

*Incorrigible Criminals.* Impracticability of reclaiming some of the more confirmed criminals, *Waddington* 173——Advantage of transportation in the case of confirmed or habitual offenders, *Waddington* 183. 204, 205; *Whitty* 1018; *Mayhew* 3516. 3575–3577——There would be about 200 Irish convicts yearly, who, as not being reformed or well conducted, should, under witness's plan, be sent to Bermuda and Gibraltar, or placed in penal establishments at home, and on their discharge be noted to the police of their localities, *Crofton* 1551. 1556–1565——Anticipated smallness of the number of convicts so criminal as not to be reformed under proper treatment, *ib.* 1561–1564——Advantage of letting the worst men loose in this country, rather than in the colonies, on account of the excellence of our police, *ib.* 1565.

Where there is no reformation the whole term should be passed in penal imprisonment, *Lord Grey* 1714–1717; *Hill* 1826, 1827. 1887——There were repeated instances under the old system of reckless convicts never being discharged from penal labour at home or in the colony, *Lord Grey* 1716, 1717——Opinion as to the impossibility of reforming real criminals by any system of prison discipline or punishment, *Sir A. Alison* 1979. 1988. 2009–2016——Thieves in London and other large towns rarely reform when released from prison, *Thwaites* 2810, 2811. 2957–2959——Question whether the incorrigible criminals should not be dealt with at home, *Elliot* 4032.

*See* also *Habitual Offenders.* *Life Sentences.*

*Industrial Prison Labour.* Trades should be taught in prison, with a view to their being useful in carrying out emigration, *Sir A. Alison* 1986. 2031——Employment in trades and in agricultural labour should be given in the proposed refuges, *Thwaites* 2891. 2896——The employment in the proposed factory or penal reformatory should be on army or navy clothing, or such work as the State pays for, *Shepherd* 3099. 3215–3218.

*See* also *Gratuities* (*Prison Labour*). *Mark or Task System.*

*Instigation to Crime.* Reference to the circumstance that in Aberdeen and probably in other places, there is a class of persons who systematically endeavour to entrap, and lead into fresh crime, boys on their discharge from prison, *O'Brien* 693–697.

*See* also *Tickets of Leave, or Licences to be at Large.*

*INTERMEDIATE ESTABLISHMENTS:*

1. *As to the Plan being carried out in Ireland under Captain Crofton.*
2. *As to the Institution about to be established by Mr. Mayhew.*

1. *As to the Plan being carried out in Ireland under Captain Crofton:*

System of intermediate establishments at Smithfield, Dublin, and at Fort Camden, Cork, for the preparation of the convicts before their discharge under licence; details as to the discipline and the success thereof, *Crofton* 1488–1500——Inducement to the community to employ licensed persons from Smithfield and Fort Camden, *ib.* 1481. 1497–1499.

Reports, 1856—*continued.*

*INTERMEDIATE ESTABLISHMENTS*—continued.

1. *As to the Plan being carried out in Ireland, &c.*—continued.

1499, 1500——Importance of small numbers in the intermediate prisons, for the sake of individualization in treatment, *Crofton* 1489. 1507——Different class of persons sent to Smithfield, and to Fort Camden, *ib.* 1494–1497——Another establishment near Cork and another in Dublin are about to be opened, *ib.* 1497.

One hundred male convicts have already passed through the intermediate establishments, fifty-one of them on tickets of leave, *Crofton* 1499. 1502——System at the intermediate prisons of using the several officers of the establishment as moral agents, *ib.* 1502——Total number discharged absolutely and under licence from these prisons; the result, so far as it can be ascertained, is most satisfactory, *ib.* 1502–1506——Greater industry than in the case of ordinary prisoners, *ib.* 1506——The four intermediate establishments will contain altogether 300 convicts, *ib.* 1507–1509.

Contemplated substitute of the system and discipline of intermediate prisons for the system of shortening sentences under licence, *Crofton* 1519–1522. 1585——Applicability of the system of small intermediate or reformatory institutions with employment on public works, &c. to England as well as to Ireland, *ib.* 1589 *et seq.*——Terms of penal servitude before convicts are sent to the intermediate institutions, *ib.* 1613——Probable advantage of certain private co-operation in the management as a means of furthering the employment or emigration of the men, *ib.* 1635–1644.

2. *As to the Institution about to be established by Mr. Mayhew:*

Suggestions relative to houses of refuge or medium institutions between the prison and the public; plan of an institution of this kind is about to be established by witness from private subscription, *Mayhew* 3583–3611——The main object of witness's institution is to provide employment for discharged prisoners, *ib.* 3586——The plan embraces a system of guarantees to employers, *ib.*——There will also be a careful division and association of offenders of different classes and ages, *ib.* 3586–3590. 3604, 3605.

Plan of an emigration fund in witness's scheme, *Mayhew* 3590——It is hoped that after a time the institution will be self-supporting, *ib.* 3594——Advantage in intermediate institutions being in the hands of private individuals rather than of Government, *ib.* 3595–3603——Duty, however, of Government to aid the formation of intermediate institutions as an avenue to employment or emigration, *ib.* 3598.

*See* also *Emigration. Employment. Moveable Prisons. Patronage Societies. Refuges for Discharged Prisoners.*

*Invalid Convicts.* On 11th March last there were 1,155 invalid convicts in "Stirling Castle" hulk and at Dartmoor Prison, *O'Brien* 532——Accommodation at present at Dartmoor and in the "Stirling Castle," *Whitty* 866. 868——Some invalid transports have continued in imprisonment in this country for six years, *ib.* 937–940. 948, 949——Suggested longer terms of penal servitude in the case of those whose ill-health is a bar to transportation, *Jebb* 1221.

*Ireland.* Few discharges by ticket of leave in Ireland, *Waddington* 35——Nominal return (*App. First Rep. p.* 183) referred to, showing that twenty male convicts have been discharged on tickets of licence in Ireland up to the 10th of April 1856, *ib.* 254. 263, 264——Reasons why it has not been thought expedient, till within the last five or six months, to release convicts in Ireland under licence, *Crofton* 1471, 1472. 1487——Witness knows only one instance of a ticket-of-leave man being re-convicted in Ireland since the Act of 1853, *Sir M. Barrington* 2352. 2362–2365. 2391–2393. 2416.

Number of Irish convicts sentenced to transportation, and number actually transported, in the years 1848–52, *Waddington* 222–225—— Return (*App. First Rep. p.* 182), and explanation thereon, as to the number of male and female convicts who have been discharged in Ireland between the 1st September 1853 and the 10th April 1856, *ib.* 254–262——Return, upon pardon, of 371 male convicts to Ireland from Bermuda and Gibraltar, *Waddington* 254–259–264, and *App. First Rep. p.* 182——On the 1st January there were 2,590 male and 619 female convicts in Ireland, *Jebb* 1223——Calculation that there will be about 450 males and 125 females sentenced to penal servitude and transportation in future years, *ib.* 1225.

In Ireland about 800 convicts are discharged annually; how these might be disposed of, *Crofton* 1551–1554——Witness considers that transportation is a punishment which, for a very numerous class of cases, can hardly be dispensed with in Ireland, *Sir M. Barrington* 2329 *et seq.*; *Right Hon. N. Ball* 3619–3627——Similar practice generally in Ireland as in England of carrying out sentences of transportation, *Sir M. Barrington* 2342, 2343——Approval of penal servitude sentences in the case of ordinary crimes, such as larcenies, *ib.* 2373–2375. 2385–2388. 2397. 2400.

*See* also *Agrarian Offences, Ireland. Intermediate Establishments*, 1. *Labour of Convicts. Moveable Prisons. Police Surveillance*, 3. *Prison Discipline. Tickets of Leave, or Licences to be at Large*, 8. 12.

Reports, 1856—*continued.*

J.

*Jebb, Colonel Joshua, R.E., C.B.* (Analysis of his Evidence.)—Has been Chairman of the Directors of Convict Prisons since the passing of the Act of July 1850; 1039, 1040——Has been connected with the convict discipline since the erection of Pentonville and Parkhurst, about eighteen years ago, 1041, 1042——Practice previously to 1851 to pass from moderate sentences of imprisonment to sentences of seven and ten years' transportation, 1044——Resolutions of the Select Committee of the House of Commons of 1850, with a view to reducing the number of transported convicts, and increasing the number to be imprisoned and discharged in this country, *ib.*——Adoption practically of these Resolutions in the Act of 16 & 17 Vict. c. 99, *ib.*

Reference to the notice to convicts previously to the Act of 1853, as showing the regulations then in force in regard to convicts in separate confinement, 1045-1047——Regulations in the notice in regard to convicts on public works, 1047——Regulations in regard to the system of tickets of leave in the penal colony, *ib.*——Very satisfactory operation of the notice, in the case of public works, in producing exemplary conduct, as entitling the convicts to a remission of part of the period before embarkation for the colonies, *ib.*——Excellent discipline, and exemplary conduct of the prisoners at Portland, 1047. 1051. 1085, 1086.

On the passing of the Act of 1853, there were about 6,700 men in Great Britain under sentences of transportation for seven and ten years, 1048, 1049——Explanation as to the practice adopted in commuting these sentences into imprisonment or penal servitude, with release on licence in this country, 1049, 1050——Feeling of disappointment among the convicts at Portland in consequence of transportation not being carried out; their good behaviour under the circumstances, 1049. 1051. 1086. 1136, 1137.

Since the passing of the Act up to 11th March last, 5,152 male and female convicts have been discharged on licences from prisons in Great Britain, Bermuda, and Gibraltar, 1052-1054——Total of 179 revoked licences, 1054——On account of misconduct in prison, 554 licences have for a time been withheld, *ib.*——Total of 5,049 male convicts released up to 11th March last, *ib.*——Total of 404 re-convicted male convicts, *ib.*——Total of 153 whose licences have been revoked, *ib.*——About eight per cent. of those released have again fallen into crime in a period of two years and five months, *ib.*

Reference to a circular from the Home Department to the visiting justices of prisons, dated 15 February 1855, as first calling for specific information in regard to the re-committal of licensed convicts, 1054. 1057——Grounds for the inference that previously to the information consequent on the circular of February 1855, the ticket-of-leave convicts were on the whole as well conducted as since that period, 1055, 1056——The system of licensing has been most satisfactory, far more so than witness had anticipated, 1057. 1064. 1066. 1069. 1077-1080.

Analysis of the offences in the case of those re-convicted, 1057——Particulars as to the number released on licence in each of the English counties, and in Wales, together with the proportion which they bear to the population of each county, 1058-1064——Excellent moral effect of a judicious prison discipline, applied for a sufficient period, 1064——Much better conduct on release of those sentenced for long periods and brought under proper discipline than of others, who, though less criminal at first, have been from time to time imprisoned for short periods, 1063-1065.

Proper feeling displayed by ticket-of-leave men in subsequent communications with chaplains, 1066——Valuable co-operation on the part of many magistrates, clergymen, and others, in procuring employment for the men, and generally in furthering the system, 1066-1071——There have, however, been great difficulties and strong prejudices to overcome, 1069——Gratuity for industry received by the men on their discharge, 1072——Certificate of character given on the discharge with licence, as well as on absolute release, 1072-1075.

The licence is granted altogether irrespectively of the views of the chaplain as to the reformation of the convict, 1076——Inexpediency of the chaplain's opinion affecting the treatment of any convict, *ib.*——Adequate data for the conclusion that the system of licences has worked wisely and well, 1080——Unsatisfactory effect of sentences of penal servitude as compared with sentences of transportation, the latter being liable to remission, 1081-1088. 1194-1198——Importance in all cases of penal servitude, as well as of transportation, of a maximum sentence and a minimum term, as an inducement to reformation; a new Act would not be necessary for the purpose, 1089-1091. 1110-1129. 1159, 1160.

Failure of the system in France of releasing certain prisoners, and restricting them to certain districts under close supervision, 1093-1095——Objection to any surveillance over licensed convicts, 1093. 1096. 1108——Objection also to their liberty being locally restricted; they should, in fact, be allowed to go to any part of the British possessions, including the colonies, 1093. 1096-1106. 1160——Concurrence with Mr. Elliot as to the difficulties in the way of new penal settlements abroad, 1109.

More just gradation of punishment if there were more sentences for moderate periods

of

*Jebb, Colonel Joshua, R.E., C.B.* (Analysis of his Evidence)—*continued.*

of imprisonment, 1130–1133——Approval of the practice in America of punishing the graver offences with four or five years' imprisonment, instead of transportation, 1134——Comparatively non-deterrent effect of a sentence of transportation, 1134–1137. 1161. 1189–1193——Calculation that the gross cost of the combined system of penal servitude and transportation will be 370,750 *l.* annually, and the net cost, after deducting the value of prisoners' labour, 195,700, whereas the gross cost in 1851 of the old system of transportation was 587,294 *l.*, and the net cost 419,476 *l.*, 1138, 1139. 1213–1216.

The present establishments at home and at Gibraltar, Bermuda, and Western Australia, would accommodate all the convicts likely, under the new system, to be on the hands of Government, 1130. 1182——Great importance of the useful public employment of convicts in dockyards and arsenals, &c. at home, 1139. 1180–1182. 1186——Considerable and increasing value of the convicts' labour on public works at Portland, 1139–1141——Value of agricultural labour for moral training, though, as regards profit, such employment at Dartmoor is not favourable, 1141–1143.

Urgent importance of the establishment of benevolent institutions as refuges to friendless prisoners on their discharge, and pending their employment, 1144–1149. 1151. 1156——Approval of voluntary institutions, encouraged by Government support, 1144, 1145. 1148, 1149——Formation of the Refuge at Fulham, with a view to the reception of the better conducted females, and as a recommendation to their employment by the public, 1150–1152. 1156. 1164–1167——Views of Lord Palmerston, as conveyed to witness in 1853, in regard to the formation of female Refuges, 1151, 1152.

Failure of an attempted arrangement with the Refuge for the Destitute at Dalston, for the reception of discharged females, and for the disposal of a portion by emigration, 1152, 1153——Slightly penal character of the Refuge at Fulham, 1152. 1164——The institution is about to commence operations; before the end of the year it will accommodate about 180 females, 1152–1154. 1170–1174——Previous discipline at Brixton and Millbank before transmission to the Refuge, 1155, 1156. 1166——Views of Mrs. Martin and Mr. Moran, of Brixton Prison, in approval of the Refuge, 1156——Useful operation of voluntary institutions for the reception and protection of females, 1156–1158——Approval of tickets of leave being granted to females discharged from Fulham, 1168, 1169.

Difficulty felt in France in regard to secondary punishment, more especially in the case of juveniles, 1175–1177——Gibraltar and Bermuda are analogous to Portland, 1178——Approval of a convict establishment in any colony where there is a decided demand for labour on public works, and subsequently in private service, 1180–1183——Expediency of bringing transported convicts back to England, if on the expiration of their sentence their labour cannot be absorbed in the colony, 1183–1186.

Next to capital punishment, imprisonment for life has the most deterrent effect, 1191——There would be no difficulty nor inhumanity in carrying out imprisonment for life at Dartmoor or Portland, *ib.*——Less deterrent effect of a sentence of fourteen years' transportation than of six years' penal servitude, 1192, 1193——Provision is made in the Act for penal servitude for life, 1192——Lower standard of discipline at Portland since the non-remission of a portion of the sentence, 1194–1198——Effect of the previous discipline in solitary confinement in leading to good conduct on public works, 1199–1201.

Rare instances of corporal punishment, or of any severe punishment, of prisoners on public works, 1202——Good order and proper feeling on the part of public works prisoners, 1203, 1204——Reformation through the public works system, as contrasted with the demoralization through the old hulk system, 1203, 1204——Very satisfactory character of the correspondence frequently carried on between the ticket-of-leave men and the chaplains, 1205, 1206——Disapproval of the collection of ticket-of-leave men in large numbers, 1207, 1208——Approval of the formation of district societies of patronage, as in France, with a view to obtaining employment for discharged convicts, 1208–1210——Importance of reformatory institutions, if rightly directed, 1211, 1212.

[Second Examination.]—Advantage and convenience of the system of transportation so long as there were means in the colonies of absolving the labour of the convicts, 1219. 1345——Demoralization consequent on the undue accumulation of convicts in Van Diemen's Land, 1219, 1220——System adopted by Lord Grey, whereby transportation was looked upon merely as compulsory emigration, or as a reward for good conduct during the first and severe part of the sentence at home, 1220——Decided preference shown by French convicts for transportation as compared with imprisonment, 1220, 1221.

Proposition that all sentences of transportation for fifteen years and upwards be carried out by so many years of penal servitude at home, reducible on good conduct, and so many years of transportation with a ticket of leave, 1221. 1292–1300. 1346. 1353. 1371–1388——Scale recommended in carrying out the foregoing proposition, 1221. 1264. 1292–1298, 1346. 1383–1388——Further opinion that imprisonment for many years, or for life, may, with proper regulations, be carried out without difficulty, 1221. 1313. 1314.

Reports, 1856—*continued.*

*Jebb, Colonel Joshua, R.E., C.B.* (Analysis of his Evidence)—*continued.*

Sentences of death commuted, should be served by imprisonment for life, 1221.——Review of Government measures since 1838, showing that the Act of 1853 has reduced the number annually sentenced to transportation from about 3,000 to 300, *ib.*

Further statement as to the comparative cost of the old system of transportation and the present combined system; corrected estimate of 155,000 *l.* as the cost of the present system, 1223–1235——Resolution of the Select Committee of 1850 in favour of long imprisonments further adverted to, 1236–1239——Belief that, on the whole, a very fair opinion is formed of the conduct of each man in separate confinement, 1241–1245——Greater facilities for judging of the conduct of the men when removed to the public works, 1246–1248.

Further opinion that the ticket-of-leave experiment has been successful, 1249. 1254——Impression, nevertheless, that as ticket-of-leave men become a marked class, it would be better to release absolutely and without any restriction, 1250–1258——Difficulty under the present arrangements in preventing ticket-of-leave men becoming locally known as such, 1251, 1252——If the system be continued, steps should be taken to conceal their character as released convicts, 1253.

In recommending a maximum and minimum term of penal servitude, witness does so without reference to a licence on discharge, 1255, 1256——Further statement as to the expediency of allowing licensed convicts to go to the colonies, 1259–1263——Doubt as to its being necessary to alter the Act in order to pass a sentence of five years' penal servitude reducible to four years on good conduct, 1265–1269——Further evidence to the effect that sentences of four years' or six years' penal servitude are more dreaded than sentences of seven years' or fourteen years' transportation, 1270–1291. 1346. 1349–1353.

Practice formerly to transport a seven years' convict after two years' good conduct, and to release him altogether after three-and-a-half years' good conduct in the hulks, 1270–1275——Objection to the custom not to assist transported convicts to return to this country on the expiration of their sentence, 1281–1284——Nature of the treatment and discipline recommended in case of imprisonments for two years, 1302. 1306–1310——Obstacle to longer sentences to actual imprisonments than for two years; the county prisons would not be available for longer sentences, 1303–1308.

Probable alteration necessary in the law in regard to longer sentences of imprisonment, 1309. 1311——Importance of keeping long-term and short-term prisoners in different prisons, 1310——Circumstance of there being of late many more sentences of penal servitude than of transportation, 1315——Expediency of the sentence, whether of transportation or penal servitude, being carried out as intended, 1316–1318——Intention of the Act, though not verbally carried out, that there should be no remission of penal servitude sentences, 1319–1323——Uncertainty, till the issue of the official regulations and notice in November 1855, whether the tickets of leave were to be extended to penal servitude sentences or not, 1324–1329.

Probable permanence of the demand for convicts in Bermuda and Gibraltar, 1330, 1331. 1369——Selection of convicts for those places by Captain Whitty and witness, 1332–1334——Selection of healthy convicts, and who have the longest terms to serve, 1335——Different discipline in Bermuda and Gibraltar and at Portland; the former is about being assimilated to the latter, 1337–1342——Probable advantage if the longest sentenced and worst class were sent to Gibraltar and Bermuda, 1343, 1344. 1370. 1379–1382.

Disapproval of transportation as a penal portion of the punishment, 1345. 1371–1373——Enormous cost of transportation to Western Australia, 1347——Arrangement that the best class of convicts are to be sent to Western Australia, 1347, 1348. 1357–1359——Expediency of rendering transportation more penal than penal servitude if it continue to be administered as the next punishment to that of death, 1351–1353——Belief that Western Australia is favourable to the convict system merely on account of the consequent Government expenditure in the colony, 1354——Further concurrence in Mr. Elliot's objections to the formation of a new penal colony, 1355, 1356. 1367, 1368. 1444.

Further statement as to the advantage of a maximum sentence and a minimum term in cases of penal servitude, 1360–1365. 1387. 1389–1393——Different effect of long and short imprisonments upon the mind, 1360–1364——Great value of separate confinement as the commencement of imprisonment, 1366. 1413, 1414——In recommending sentences conjointly of penal servitude and transportation, witness does so in reference to the Act of 1853, and on the supposition that colonies may be found to absorb the labour of the convicts, 1371–1375——Impolicy in this country depending on its colonies as a means of dealing with its convicts, 1373. 1445——Save at Bermuda and Gibraltar, witness does not recommend any penal servitude beyond the seas, 1376–1382.

Defence of the system of notice to prisoners, as regulated by the Secretary of State, in regard to remissions of sentence, 1392–1400——Further statement as to the sufficiency of

Reports, 1856—*continued.*

*Jebb, Colonel Joshua, R.E., C.B.* (Analysis of his Evidence)—*continued.*

of the data for judging of the effects of the ticket-of-leave system, 1401–1404——Careful consideration given to the subject of commutation of sentence on the passing of the Act of 1853; 1405–1409——Doubt as to any revocations of licence on the ground merely of suspicious circumstances, 1410, 1411——Comparatively large number of criminals in Middlesex, 1412——Also in Staffordshire, *ib.*

Impracticability of Capt. Maconochie's proposition in regard to task sentences, 1415, 1416——Bar to reformation in the common prisons on account of the short sentences, 1417——Greater danger of a return to crime in the case of short-term prisoners when discharged than in the case of long-term prisoners, 1418——Further objection to mixing short-term and long-term prisoners together, 1419——Expediency of steps being taken for the help of ordinary prisoners on discharge, as well as for the help of those discharged from the Government or convict prisons, 1420, 1421——Nature of the institution or refuge most desirable for discharged prisoners further considered, 1422–1436. 1465, 1466.

Greater advantage to a convict of transportation than of release on licence or confinement at home, 1437–1441——Further opinion as to the more deterrent effect of long imprisonment and penal servitude than of short imprisonment and transportation, 1442, 1443——Ample prison accommodation at home and at Bermuda and Gibraltar for dealing with penal servitude sentences, 1446——Reasons for the failure of the negociation with the Refuge for the Destitute at Dalston, 1447, 1448——Peculiar obstacles to the employment of discharged female prisoners, 1449. 1459——Non-transmission of female convicts to Western Australia, the colonists having objected to them, 1450. 1464.

Further evidence as to the great importance of refuges for discharged females, 1451–1456——Doubt as to female prisoners being specially ill-conducted in prison, 1457, 1458——Importance, if transportation be extended, of sending out female convicts, 1459, 1460——Formation of the new system at Brixton prison on the discontinuance of transportation of female convicts to Van Diemen's Land, 1461–1463——Power under the Act to carry out the sentences of transportation by so many years' penal servitude and so many years' actual transportation, as recommended by witness, 1467, 1468.

*Judges, Magistrates, &c.* See *Certainty of Punishment.* *Gradation of Punishment.* *Uncertainty of Punishment.*

*Juvenile Offenders:*

1. *Difficulty with respect to Transportation.*
2. *Practice as regards Employment at Home.*
3. *Result of the System of conditional Release.*

1. *Difficulty with respect to Transportation:*

Failure of attempts to carry out the transportation of juvenile offenders; strong colonial feeling hereon, *Elliot* 461–463. 487, 488——The feeling of the colony should first be consulted before any offenders are sent thither, *ib.* 463. 487——Objection in the colonies to receiving the boys on account of their unsettled habits, *O'Brien* 633, 634.

2. *Practice as regards Employment at Home:*

Power of the Governor of Parkhurst Prison to hold the licence for three months, if by so doing anything can be done for the boys' benefit, *O'Brien* 607——Great difficulty in procuring employment for the boys in this country, *ib.* 629–632——List of prisoners for whom employment was procured by the Governor of Parkhurst; they are almost all doing well, *ib.* 629, 630——Particulars relative to prisoners for whom employment has been procured by the chaplain, by witness, and others, *ib.* 630–634. 636. 641——Employment on ship-board is an excellent mode of disposing of the boys, *ib.* 642.

3. *Result of the System of conditional Release:*

Witness delivers in a report of information received relative to 151 prisoners licensed from Parkhurst during the four quarters ending respectively 31 March, 30 June, 30 September, and 31 December 1855, showing respectively the date of discharge, date of information afforded, and particulars as to their conduct, *O'Brien* 643–646, *and Ev. First Rep. p.* 56–61——Out of 151 prisoners discharged from Parkhurst, it is known that 134 have turned out satisfactorily, and seventeen not satisfactorily, *O'Brien* 647, 648——Besides those discharged in 1855, 148 others have been discharged since the passing of the Act up to the 31st December 1855, with tickets of leave, of whom nothing has been heard, *ib.* 650——Estimate, that while about eighty per cent. of licensed adults reform, not more than seventy per cent. of licensed juveniles can be calculated on, *ib.* 681–685. 708, 709——The result in regard to boys discharged, through good conduct, with licences, cannot be taken as any precedent for the result in the case of boys not discharged till the expiration of the sentence, *ib.* 721–725.

*See* also *Emigration.* *Gratuities* (*Prison Labour*). *Parkhurst Prison.*

Reports, 1856—*continued.*

L.

*Labour of Convicts.* Less available character of Irish than of English convicts, so that comparatively few of the former have been sent to Australia, *Waddington* 229, 230——Circumstance of the transmission of Irish convicts to Western Australia having been discontinued since 1853 on account of their comparative inferiority as artisans, *Elliot* 505–509. 528——Prostrate state, morally and physically, of the Irish convicts at the time of the passing of the Act 17 & 18 Vict., *Crofton* 1470, 1471——Report from the Governor of Western Australia, and from the superintendent of convicts in the colony, showing the moral and physical inferiority of Irish convicts sent out in 1854, *ib.* 1471.

Excellent working of the amended system of transportation, as regards the reformation and value of the labour of the convicts, who, in fact, were more useful and more prized by the colonists than free labourers, *Lord Grey* 1681. 1738——Instances afforded by New South Wales and Van Diemen's Land of the successful development of colonial resources by means of convict labour, *ib.* 1746. 1760——Objection to any interference of convict labour with free labour in this country, *Sir M. Barrington* 2397.

*See* also *Agricultural Labour of Convicts. Gratuities (Prison Labour). Highlands, Scotland. Industrial Prison Labour. Intermediate Establishments*, 1. *Mark or Task System. Moveable Prisons. Public Works. Value of Convict Labour.*

*Liberty:*

1. *When Released on Licence.*
2. *Before actual Release from Prison.*

1. *When Released on Licence:*

Recommendation that there be no restriction as to place, and that emigration be allowable, *O'Brien* 657–662——Objection to the liberty of licensed convicts being locally restricted; they should, in fact, be allowed to go to any part of the British possessions, including the colonies, *Jebb* 1093. 1096–1106. 1160. 1259–1263; *Lord Grey* 1691; *Hill* 1831; *Sir A. Alison* 2027, 2028; *Smart* 2194–2196——Emigration probably of some ticket-of-leave men if not restricted from going to the colonies, *Jebb* 1104. 1261–1263——The gratuity for industry should be given on discharge, and the man allowed to go wherever he liked, save to the place of his former crimes, *Smart* 2178–2181. 2187–2192.

2. *Before actual Release from Prison:*

Comparative liberty of action before the discharge of the convicts from the intermediate prisons in Ireland, *Crofton* 1497. 1499. 1506——Approval of Captain Crofton's plan of allowing liberty and freedom of action before discharge, *Hill* 1914——Proposition embraced in witness's scheme for taking men from employment on public works, and giving them a very considerable amount of liberty in connexion with Government employment before their discharge, *Shepherd* 3099–3104. 3171. 3183–3192, 3115–3118——Suggestion in the event of long sentences of imprisonment in this country, that there be a third stage of comparative liberty in one of the Hebrides, or some such place, *Elliot* 4043–4045.

*Licences to be at Large.* See *Tickets of Leave, or Licences to be at Large.*

*Life Sentences.* Objection to a system of penal servitude for life in some establishment in or near this country, *Waddington* 174–190——There would be no difficulty nor inhumanity in carrying out imprisonment for life at Dartmoor or Portland, *Jebb* 1191. 1221. 1313, 1314——Next to capital punishment, imprisonment for life has the most deterrent effect, *ib.* 1191——Provision is made in the Act for penal servitude for life, *ib.* 1192——Sentences of death commuted should be served by imprisonment for life, *ib.* 1221——Life sentences should comprise ten years' penal servitude, reducible to eight years by good conduct, and transportation for the remainder of life, *ib.*

In some extreme cases it might be desirable to keep criminals under restriction during their lives, *Lord Grey* 1732, 1733; *Sir W. Erle* 3325. 3333–3335——Imprisonment for life in certain cases is not only desirable in principle, but is perfectly practicable, *Hill* 1878–1883——Civil death, or perpetual imprisonment under the mark system, might properly be substituted for capital punishment, *Maconochie* 3779——Imprisonment for life in Prussia; treatment adopted, *Baron De Katte* 3845–3857. 3882——Argument by Mr. Hill, in 1855, in favour of perpetual imprisonment in certain cases, *App.* (*Second Rep.*) *p.* 187.

*Locomotion.* Facilities afforded by railways for the furtherance of thievish propensities, *Hill* 1802, 1803.

*London.* Witness considers that within the last two years there has been a great increase of thieves in London, and that the same is attributable to the ticket-of-leave system,

Reports, 1856—*continued.*

*London*—continued.

*Loome* 2593, 2595 *et seq.*, 2672–2677. 2756, 2757——Constant practice of released convicts in London immediately to associate with their old companions, and to fall back into their former dishonest habits, *ib.* 2618, 2619. 2732——Exceptional instances of their honest employment, *ib.* 2619–2627——Belief that the great majority of ticket-of-leave men, in London at least, live by dishonest means, *ib.* 2620. 2633, 2634. 2694–2700. 2732. 2754——Where one is reformed, ten or twenty return to their old habits, *ib.* 2620——They generally return to the same district whence they were first convicted, *Brennan* 3266, 3267.

Reference to reports by superintendents of Metropolitan Police of the number of ticket-of-leave men residing in their several divisions, with statements as to their means of living; these reports handed in, *App.* (*Second Rep.*) *p.* 197–202; *Sir R. Mayne* 3372–3374. 3380–3383.

*London Reformatory Institution* (*Westminster*). Objection to discharged prisoners being assembled, as at the Institution in Westminster, *Jebb* 1431——Favourable operation of the Smith-street Institution in the assistance it offers to emigration, *Sir R. Mayne* 3452–3454——Exceptions taken to the plan of the institution, *Mayhew* 3616.

*Long Imprisonments.* Actual employment on public works at Portland for six years, or any longer period, would not of itself be injurious to health, *Whitty* 943–953. 959–968——Probable effects, however, of long imprisonments, or imprisonments for life, in impairing the mental and physical faculties, *ib.* 952. 961–964.

Resolution of the Select Committee of 1850 in favour of long imprisonments adverted to, *Jebb* 1044. 1236–1239——Much better conduct, on release, of those sentenced for long periods, and brought under proper discipline, than of others, who, though less criminal at first, have been from time to time imprisoned for short periods, *ib.* 1063–1065. 1191–1193. 1270–1291. 1349–1353. 1442, 1443——Opinion that imprisonment for many years, or for life, may, with proper regulations, be carried out without difficulty, *ib.* 1191. 1221. 1313, 1314——Obstacle to longer sentences to actual imprisonment than for two years; the county prisons would not be available for longer sentences, *ib.* 1303–1308——Probable alteration necessary in the law in regard to longer sentences of imprisonments, *ib.* 1309. 1311——Different effect of long and short imprisonments upon the mind, *ib.* 1360–1364.

Without reference to the sentence, witness is an advocate for the general principle that release should not be granted till there is sign of amendment, *Hill* 1626, 1627. 1878–1883——Care necessary in order to prevent long sentences of penal servitude being injurious to the health or mind of the convict, *Walpole* 2499–2505. 2547–2554——Suggestion for passing longer sentences in connection with a system of unconditional release before the expiration of the term, *Shepherd* 3114–3122. 3132–3135——Four years should be the shortest period of detention, *ib.* 3114——Great importance of longer terms of imprisonment or penal servitude if transportation be abolished, *Sir R. Mayne* 3390–3394. 3398–3400.

*Loome, Mark.* (Analysis of his Evidence.)—Is a serjeant of the B. division of the metropolitan police; has been in the force nearly fourteen years, 2573–2575——Adduces direct evidence for the conclusion that criminals, both old and young, have a great horror of transportation, and dread it far more than imprisonment in this country, 2576–2594. 2635–2643. 2660–2663. 2680–2683. 2714–2717——Considers that within the last two years there has been a great increase of thieves in London, and that the same is attributable to the ticket-of-leave system, 2593. 2595 *et seq.*, 2672–2677. 2756–2757.

Data on which witness concludes that there are fifty ticket-of-leave men in Westminster, or at least very nearly that number, without reference to conditionally-pardoned or absolutely discharged criminals, 2596–2617. 2630–2632. 2649–2659. 2707–2710. 2732–2745——Frequent instances in which the ticket of leave has been shown to witness; description of the document, 2597. 2602–2617——Numerous cases of ticket-of-leave men training up boys and girls as pickpockets; remarkable illustration of this, 2600–2603. 2672–2677. 2684–2686——Doubt as to the precise distinction between a ticket of leave and a conditional pardon, 2614–2617. 2649–2654.

Serious offences sometimes committed by ticket-of-leave men, or returned transports, 2618. 2690–2693——They may commit twenty offences sometimes before they are detected, 2618. 2699——Constant practice of released convicts in London immediately to associate with their old companions, and to fall back into their former dishonest habits, 2618, 2619. 2732——Exceptional instances of the honest employment of ticket-of-leave men in London, 2619–2627——Belief that the great majority of ticket-of-leave men, in London at least, live by dishonest means, 2620, 2633, 2634. 2694–2700. 2732. 2754.

Nature of the surveillance or interference exercised by witness and the police generally in regard to ill-conducted ticket-of-leave men; notice is never taken of the well conducted, 2621, 2622. 2628, 2629. 2644–2648. 2678, 2679. 2718–2728——There are most probably several ticket-of-leave men in Westminster besides those known to witness, 2630–2632. 2707–2710——Instructions under which the police exercise surveillance, and make reports, 2645–2648. 2684–2689. 2711, 2712. 2718–2728.

Reports, 1856—*continued.*

*Loome, Mark.* (Analysis of his Evidence)—*continued.*

Greater difficulty of obtaining employment in England than in the colonies adverted to in connection with the dread of transportation, 2664–2671. 2713–2717——Custom of witness not to warn ticket-of-leave men, nor to bring them, however ill-conducted, before a magistrate, unless there is a specific offence chargeable; there are no instructions to that effect, 2686–2689. 2704–2706.

Failure of the Act of 1853, on account of the large relapse into crime consequent thereon, 2694–2700. 2729–2734. 2754, 2755——Witness is not aware of any revocation of licence, save on re-conviction, 2701. 2729——Frequent practice of released convicts to destroy their tickets of leave, or not to carry them on their person, 2746–2753.

*Lusk Female Reformatory.* Construction of a female reformatory prison at Lusk, near Dublin, for the treatment of a portion of the juvenile criminals, *Crofton* 1480, 1481. 1486.

M.

*M'Levy, James.* (Analysis of his Evidence.)—Has been a detective officer at Edinburgh for the last twenty-two years, 2280–2282——Considers that ticket-of-leave men on returning to Edinburgh are just as bad as on their first conviction; grounds for this statement, 2283–2313. 2319–2322. 2326——The criminal class have a greater dread of penal servitude than of the corresponding sentence of transportation, 2303–2306——Rare instances previously to the Act of 1853 of transported convicts returning to Edinburgh, 2314–2318——Circumstance of no information being given to the Edinburgh police of the return of released convicts, 2323–2326——It would be just as well, as regards Edinburgh, to discharge the men unconditionally, 2325.

*Maconochie, Captain Alexander, R.N.* (Analysis of his Evidence.)—Has paid considerable attention to the subject of transportation, and the substitution for it of other punishments, 3670–3674——Is strongly opposed to sentences of penal servitude on account of the absence of any inducement to good conduct, 3675, 3676. 3682, 3683. 3703——Considers that neither transportation nor penal servitude has any very deterrent effect, and that all deterring punishment is a mistake, 3677–3680. 3700, 3701. 3785, 3786.

Main importance of getting rid as much as possible of the causes of aggravated offence, 3680, 3681. 3701. 3703——Necessity of transportation eventually if the present system of punishment be persisted in, 3680. 3701, 3702. 3743——Decided approval of a system of minima of time, and of remission of sentence, 3683 *et seq.*——Total inadequacy of the means now adopted for judging of good conduct or reformation, as affecting remissions, 3684–3687. 3697. 3715, 3716. 3724. 3784.

Evidence in detail in explanation and support of witness's system of marks as the best, and in fact the only true means of determining good conduct with a view to remission, 3688 *et seq.*——Partial failure of the mark system in Norfolk Island adverted to and explained, 3690——Manner in which the daily record of marks should be carried out; defective practice hereon at Portland and Dartmoor, 3690–3694——The detention after a minimum time must depend upon conduct, there being no maximum time, 3697. 3703. 3718. 3728——Increasing number of aggravated crimes attributed to the present radically wrong system of separate treatment, &c., of secondary punishment generally, 3698–3703. 3767. 3780–3794.

Conviction that the mark system of discipline will gradually and surely improve the moral state of criminals, however seemingly incorrigible, 3703–3709. 3728. 3767. 3775–3777. 3787–3789. 3795, 3796——How a minimum time should be combined with the mark system, 3704–3706. 3710–3712. 3718, 3719——Belief that tickets of leave are operating very unfavourably, inasmuch as a totally wrong system is adopted before release, 3707–3709. 3713, 3714. 3780–3794——Under the mark system of remission, tickets of leave might not be objectionable, 3712, 3713.

Success of the mark system so far as it was tried at Birmingham Prison, 3720–3722——Feature of witness's system to place temptation within the reach of the prisoner, 3726, 3727. 3777——Specially severe punishment, by way of marks, proposed in cases of re-committals, 3728, 3729——After a third conviction every criminal should be branded, 3729——Inexpediency and impracticability of punishment by way of reparation in case of felony or theft, 3733–3742——There need be no transportation if witness's suggestions be carried out in their entirety, 3744.

Suggested alteration in the prison dress, 3745——Special education and qualifications advisable in governors of prisons, *ib.*——Improvement also necessary in the *status* and character of the inferior officers, *ib.*——Amendment suggested in regard to the communication of prisoners with their friends, the present system being very injurious, 3745–3748——Difficulties at present in regard to the employment of discharged prisoners adverted to as removable in time under the mark system; necessity else of transportation or compulsory emigration, 3748–3756.

Objections to a penal settlement in the Falkland Islands, 3757, 3758. 3764. 3769——Operation of the mark system in Norfolk Island adverted to as having remedied great immorality,

Reports, 1856—*continued.*

*Maconochie, Captain Alexander, R.N.* (Analysis of his Evidence)—*continued.*

immorality, 3760, 3761——Anticipated success of a penal establishment on the mark system in one of the islands of the Pacific, 3763. 3765. 3769-3774——Aggravation of evil in Norfolk Island by the introduction of women, 3766——Plan suggested whereby female convicts might with advantage be sent to the colonies, 3767——Advantage of power to punish for the same offence according to certain degrees of aggravation, 3778——Civil death, or perpetual imprisonment, under the mark system might properly be substituted for capital punishment, 3779.

*Male Convicts.* Total of 6,983 male prisoners under sentences of transportation and penal servitude in the several English prisons on the 11th March 1856; how composed, *O'Brien* 531, 532——Total of 5,049 male convicts released up to the 11th March last, *Jebb* 1054——Total of 404 reconvicted male convicts, *ib.*——Total of 153 male convicts whose licences have been revoked, *ib.*

*Mark or Task System:*

1. *Explanation and Advocacy of the System by its Inventor.*
2. *Opinions for and against the System.*

1. *Explanation and Advocacy of the System by its Inventor:*

Evidence in detail in explanation and support of witness's system of marks as the best, and in fact the only true means of determining good conduct with a view to remission, *Maconochie* 3688 *et seq.*——More matured system now proposed than in witness's evidence before the House of Lords in 1847, when he spoke of marks merely as wages, *ib.* 3689——Partial failure of the mark system in Norfolk Island adverted to and explained, *ib.* 3690——Manner in which the daily record of marks should be carried out; defective practice hereon at Portland and Dartmoor, *ib.* 3690-3694——Advantage of the precision under the mark system as compared with the general superintendence under the present system, *ib.* 3690-3694. 3715-3717. 3723-3725.

The detention after a minimum time must depend upon conduct, there being no maximum time, *Maconochie* 3697. 3703. 3718. 3728——Conviction that the mark system of discipline will gradually and surely improve the moral state of criminals, however seemingly incorrigible, *ib.* 3703. 3709. 3728. 3767. 3775-3777. 3787-3789. 3795, 3796——How a minimum time should be combined with the mark system, *ib.* 3704-3706. 3710-3712. 3718, 3719——Under the mark system of remission, tickets of leave might not be objectionable, *ib.* 3712, 3713——Success of the mark system as far as it was tried at the Birmingham prison, *ib.* 3720-3722.

Feature of witness's system to place temptation within the reach of the prisoner, *Maconochie* 3726, 3727. 3777——Specially severe punishment, by way of marks, proposed in cases of recommittals, *ib.* 3728, 3729——There need be no transportation if witness's suggestions be carried out in their entirety, *ib.* 3744——Operation of the mark system in Norfolk Island adverted to as having remedied great immorality, *ib.* 3760, 3761.

2. *Opinions for and against the System:*

Impracticability of Captain Maconochie's proposition in regard to task sentences, *Jebb* 1415, 1416——Cause of the failure of the task system, as tried at Norfolk Island, *Lord Grey* 1688.

Evidence in favour of Captain Maconochie's plan of taskwork as the inducement to good conduct, *Hill* 1876. 1909, 1910. 1941. 1943; *Sir A. Alison* 2086-2089——Advantage of numerous stages of improvement of condition, so that every day a convict may, by his conduct and industry, make himself better off, *Hill* 1910——Industry should be considered as one of the chief tests whereby sentences should be remitted, *Thwaites* 2901. 2912, 2913.

Objection to remission of punishment according to a system of taskwork or prison industry, *Sir C. Cresswell* 3038-3043.

Strong approval of Captain Maconochie's system in Mr. Hill's charge to the grand jury of Birmingham, in October 1855, *App.* (*Second Rep.*) *p.* 190.

*Mayhew, Henry.* (Analysis of his Evidence.)—Is an author; has devoted considerable time and study to the general question of crime and criminals, 3471-3473. 3533-3545——Result of some tables prepared by witness, that, for the last ten years or so, the amount of crime with regard to the population has been stationary, 3474-3477——Importance of a distinction between casual and habitual offenders; result of some tables hereon, showing an increase of casual crimes and a decrease of habitual crimes, 3478-3491. 3512. 3561-3582.

Danger in indiscriminately entrusting habitual offenders with tickets of leave, 3492. 3512-3515——Habitual offenders of from fifteen to twenty-five years of age are especially difficult of reformation, 3492. 3586-3592——Beneficial operation of tickets of leave in the case of first offences or casual offenders, 3492. 3512. 3561——Personal communication of witness with ticket-of-leave men, for many of whom he has provided employment, and for whose honesty he can vouch, 3492. 3504-3507. 3615——Opinion that the ticket-of-leave system has, on the whole, been a very successful experiment, 3493.

Reports, 1856—*continued.*

*Mayhew, Henry.* (Analysis of his Evidence.)—*continued.*

Advantages, generally, of tickets of leave over a system of unconditional pardon or remission, 3494-3496. 3504. 3512. 3561-3563 —— Feeling of licensed prisoners generally that the ticket of leave is a boon to them, and is better than unconditional release, 3497, 3498. 3564-3567. 3613, 3614——Dread of the police, which induces ticket-of-leave men, however well disposed, to destroy their licences, 3499, 3500. 3612-3614——Belief as to the unduly adverse feeling of the police towards the ticket-of-leave system, 3501, 3502.

Advantage if, in public estimation, licensed prisoners were more highly regarded than those who work out their whole sentence, 3508-3512——Greater dread entertained by the majority of criminals of sentences of penal servitude than of transportation; experience on which witness grounds this statement, 3516-3520. 3539-3560——Advantage of transportation in the case of confirmed or habitual offenders, 3516. 3575-3577——Danger if the punishment of offenders be carried out without a strong penance, 3521. 3528——Inexpediency of making prison labour the means of punishment, 3523-3526.

Strong approval of a system of reformatory labour following upon penal servitude; suggestions hereon, 3524-3528. 3583 *et seq.*——Exceptions taken to the present system of labour at Pentonville and on the public works, 3524-3526——Slight fear among criminals of prison discipline, 3527, 3528——Suggestions for a better regulated and larger increase of punishment in the case of reconvictions of habitual offenders, 3530. 3568-3572——Local and hereditary character of habitual crime, 3531. 3579-3582—— Effect of civilization or education rather to increase criminality, 3532.

Possibility of reforming many of the habitual class of offenders, 3573-3575—— Suggestions relative to houses of refuge, or medium institutions between the prison and the public; plan of an institution of this kind as about to be established by witness from private subscriptions, 3583-3611——Exception taken to the plan of the Smith-street Reformatory Institution, 3616——Very great difficulty for discharged prisoners to obtain employment in this country, 3617, 3618——Granting of tickets of leave only where there is promise of employment, 3618.

*Mayne, Sir Richard, K.C.B.* (Analysis of his Evidence.)—Considers transportation a very valuable punishment, not only on account of its peculiarly deterrent effect, but because of the opportunities it offers for employment and reformation, 3358-3363. 3390. 3405. 3447——Great disadvantage of the discharge of prisoners in this country on account of the difficulty in regard to their honest employment, 3362-3365. 3449-3458——Data for the conclusion that the ticket-of-leave system is operating exceedingly unfavourably, 3364 *et seq.*

Evil of any system whereby, after short periods of imprisonment, offenders are returned to society, 3365. 3388-3394. 3398-3400. 3442-3444——Largely increasing number of reconvictions adverted to, 3365-3372 —— Considerations as to the practice of the Secretary of State not to revoke the licence save on conviction of a new offence, 3371, 3372. 3384-3387, 3459-3470 —— Cases of reconviction in which the licence is not revoked, 3372.

Reference to reports by superintendents of Metropolitan Police of the number of ticket-of-leave men residing in their several divisions, with statements as to their means of living; these reports handed in (App. Second Rep., p. 197-202), 3372-3374. 3380-3383.

Explanation relative to the instructions issued by witness to the police in regard to their observation of ticket-of-leave men; general instruction not to interfere with them in the same way as with ordinary bad characters, 3374-3379. 3414-3427. 3430. 3467—— Explanation relative to, and defence of, the mode in which the police carry out their instructions, 3380. 3412, 3413. 3437-3441——Explanation as to the interference of the police under the Act 2 & 3 Vict. c. 47, in the case of ordinary thieves or suspected characters, 3377. 3421-3424. 3435-3441.

Practice in regard to police reports to the Home Office in the case of ticket-of-leave men still criminal, but unconvicted; witness has had no instructions on the subject, 3834. 3387. 3460-3465——Approval of a properly conducted system of release with a ticket of leave, 3388—— Great importance of longer terms of imprisonment or penal servitude if transportation be abolished, 3390-3394. 3398-3400——Approval of a remission of sentence in cases of penal servitude, 3395-3397——Reference to a return (App. Second Rep., p. 203) of the number of persons recognised as having been in custody more than once for felony during the last seven years, 3398-3400.

Advantage if the hulk system of punishment were abolished, 3401-3404——Improvement if every discharge on licence were notified to the local police authorities, 3406-3411——Difficulty in carrying out a generally recognised system of police surveillance over licensed prisoners, 3431-3434. 3464——Intention to extend tickets of leave to penal servitude sentences, 3445, 3446——Benefit to Western Australia in the continuance of transportation, 3448——Obstacles to the extension of houses of refuge for discharged prisoners, 3450-3458.

Reports, 1856—*continued.*

*Mettray Juvenile Reformatory (France).* Reliable statistics at the Mettray institution for juvenile offenders, who after their discharge relapse in the proportion of at least ten per cent., *Hill* 1811. 1813. 1816.

*Middlesex.* The proportion of ticket-of-leave men to the population at large is as $4\frac{2}{10}$ to 10,000, *Jebb* 1060, 1061——Comparatively large number of criminals in the county, *ib.* 1412.

*Millbank Prison.* Explanation relative to the two classes of discipline at Millbank, namely, the probation class and the third class; notice to the convicts hereon, *O'Brien* 798–808. 830, 831——The probation minimum period of four months is always in separate confinement, *ib.* 800. 804–807——The minimum period in the third class is six months, and the treatment is or is not in separate confinement, according to circumstances, *ib.* 800–808.

*Moreton Bay.* Legal difficulty in sending convicts to Moreton Bay, as it forms part of the Government of New South Wales, *Elliot* 368——Anxiety in Moreton Bay for convict labour, the feeling in New South Wales being opposed thereto, *Elliot* 368. 386–388. 476–484; *Walpole* 2440. 2516–2520——Probability of strong opposition by New South Wales of penal settlements in the neighbouring territories of Moreton Bay or North Australia, *Elliot* 476–484.

Probability of a demand for convict labour by the free settlers in Moreton Bay, if it be constructed into an independent settlement, as it ought to be, *Lord Grey* 1754——Any dissatisfaction in New South Wales should not prevent convicts being sent to Moreton Bay, if a separate colony, *ib.* 1760, 1761.

*Mountjoy Prison (Dublin).* Excellent effect of the improved educational system adopted in regard to this prison, *Crofton* 1481——Circumstance of many Irish convicts in the prison having suffered very much about the time of the famine, on account of the separate confinement, which was then longer than it now is, *ib.* 1647–1660.

*Moveable Prisons.* Contemplated erection in Ireland of eight moveable iron buildings, to contain fifty convicts each; peculiar advantage of this scheme, *Crofton* 1509–1519. 1602. 1610 *et seq.*——The men will be (so to speak) filtered out of these intermediate prisons into the community, *ib.* 1510. 1516——The buildings will be counterparts of the huts at Aldershott and on the Curragh, *ib.* 1510——Each building will cost 330*l.*, *ib.* 1510, 1511——There will be but three officers in care of the fifty men, *ib.* 1510. 1513.

Convict labour, as proposed through means of these buildings, will not come into any dangerous competition with free labour, *Crofton* 1595–1597. 1602–1609. 1621–1626——Mild treatment and discipline to be pursued, *ib.* 1617, 1618. 1628–1630——Particular Government employment to which the convicts will be applied, *ib.* 1619–1622——The establishments may well be maintained by Government, *ib.* 1627, 1628.

Approval of the principle of Captain Crofton's plan of draughting off the convicts into moveable iron buildings, *Right Hon. N. Ball* 3648.

*Munich State Prison.* Classification, discipline, and all other particulars relative to the state prison at Munich, as shown in the answers by M. Obermaier, governor of the prison, to questions forwarded to him by witness, *Hill* 1816. 1882. 1883, *and App.* (*Second Rep.*) *p.* 168–171——Practice in Bavaria to sentence a certain class of prisoners for an uncertain period, *Hill* 1882, 1883.

Letter from Mr. Hill to the Chairman of the Committee, dated 20 June 1856, with reference to the state prison at Munich, and in corroboration of the communication from M. Obermaier, *App.* (*Second Rep.*) *p.* 160–165.

## N.

*Nassau.* Official report on the criminal code and system of penal discipline, *App.* (*Third Rep.*) *p.* 61, 62.

*New Holland.* Impression that Captain Denham's exploring expedition has no reference to the establishment of a new convict settlement, *Elliot* 499.

*New South Wales.* Opposition on the part of New South Wales, so that at the end of 1850 transportation to that colony was discontinued, *Waddington* 5–11——Foundation of New South Wales in 1784 as a colony specially for the reception of convicts, *Elliot* 269, 270——Discontinuance in 1840 of transportation, as such, to New South Wales, *ib.* 275——Cessation in 1849 of the transmission of exiles or pardoned convicts to New South Wales, in consequence of the dissatisfaction of the colonists, *ib.* 275–281.

Witness dates the success of the colony from the discovery of the value of wool as an export, and not from any impetus given by convict labour, *Elliot* 404–407——In 1846 New South Wales was practically the only colony open to the reception of convicts, *Lord*

Reports, 1856—*continued.*

*New South Wales*—continued.

*Grey* 1676——Less than twenty years ago the colonists were strongly in favour of transportation, *ib.* 1738——Transportation was most popular in the colony till a wrong system was introduced, *Sir A. Alison* 1989, 1990.

*See* also *Moreton Bay.*

*New York Five Points House of Industry.* Letter from Mr. Hill to the Chairman of the Committee, dated 23 June 1856, containing an abstract of a report on this institution, *App.* (*Second Rep.*) *p.* 190–193.

*New Zealand.* Anticipated willingness of New Zealand to receive convicts if a proper system be adopted, *Sir A. Alison* 2064, 2065.——*See* also *Canterbury Settlement.*

*Norfolk Island.* Evil results of the penal settlement in Norfolk Island adduced as an argument against the formation of a new settlement, *Elliot* 371. 411——Failure of the system of punishment as a means of reformation, *Lord Grey* 1688——Penal labour at Norfolk Island was out of all comparison more severe than at Portland or Dartmoor, *ib.* 1717——Necessity in establishing any new penal colony of guarding carefully against the repetition of such crimes as occurred under the system in Norfolk Island, *Sir A. Alison* 2067, 2068——Aggravation of evil in Norfolk Island by the introduction of women, *Maconochie* 3766.——*See* also *Mark or Task System.*

*North American Colonies.* Objections to a penal settlement in the North American Colonies, *Lord Grey* 1750, 1751.——*See* also *Canada.*

*North Australia.* Contemplated formation by Lord Derby, and subsequently by Mr. Gladstone, of a penal colony in North Australia, *Waddington* 114. 122; *Elliot* 284. 392–397——Sundry obstacles and objections to the formation of a penal settlement, *Elliot* 371——Obstacles in the climate being too cold, *Walpole* 2441, 2442. 2520, 2521. 2534.

*Norway.* Official report as to the criminal code and system of penal discipline, *App.* (*Third Rep.*) *p.* 71, 72——The want of a penal colony has never been felt, *ib.*

*Notices to Convicts.* Form of notice to convicts under sentence of transportation and penal servitude, laying down rules as to treatment in the several stages, and as to the privileges and gratuities for good conduct and labour, *Whitty* 980——Notices are issued to female convicts as well as to male convicts, *ib.* 1037, 1038——Defence of the system of notice to prisoners, as regulated by the Secretary of State, in regard to remissions of sentence, *Jebb* 1392–1400.

*Number of Ticket-of-Leave Men.* See *Tickets of Leave, or Licences to be at Large*, 7.

O.

*O'Brien, Captain Donatus.* (Analysis of his Evidence.)—Is one of the directors of convict prisons; superintends Parkhurst and Brixton prisons as well as those prisons where the first stage of solitary confinement is passed, 529, 530——Total of 6,983 male prisoners under sentences of transportation and penal servitude in the several English prisons on 11th March 1856; how composed, 531, 532——The public works prisons are the hulks at Woolwich and the prisons at Portsmouth and Portland, 533——The prisons for separate confinement, which varies from nine to twelve months, are Millbank, Pentonville, Wakefield, and Leicester; size of each of these, 534–538.

Statement showing a total of 5,328 licences issued up to 31st March last, 539–542——Total of 181 licences revoked up to the same period; explanation hereon, 543–550——Comparison of the discharges with tickets of leave in certain periods in 1854–55 with the revocations in corresponding periods in 1855–56; 550——Difficulty in showing any exact per centage of revocations, *ib.*——Altogether it has been ascertained that twelve per cent. of those discharged on licences have again fallen into crime, *ib.*

Assumption that eight per cent. is a liberal estimate for the undiscovered culprits, and that eighty per cent. of those discharged lead a reformed life, 550–555. 684, 685. 708, 709——Slight surveillance in regard to the ticket-of-leave men, 556, 557——Scale and mode of payment of gratuities, as laid down in January last, to convicts or juvenile offenders discharged with licences, 559, 560. 583, 584. 597, 598. 618–626——Payment of part of the gratuity by post-office order at the place of destination of each prisoner, 560. 597–599——Total of 12,369*l.*, or at the rate of 6*l.* 2*s.* 9*d.* each, paid in gratuities in one year for work done before discharge, 561–566.

Parkhurst contains prisoners sentenced to penal servitude or transportation at the age of sixteen and under, and also, since a recent period, prisoners of the same age who are sentenced to between one and two years' imprisonment, 570–572——Total of 423 prisoners on the 6th April last, of whom thirty-six were sentenced for short terms, 573, 574——Gradual diminution of late years in the number under sentence of transportation, 574——Details relative to the general system of treatment pursued at Parkhurst, 575 *et seq.*

Reports, 1856—*continued.*

*O'Brien, Captain Donatus.* (Analysis of his Evidence)—*continued.*

Discharge on licence after three years in the case of a sentence of seven years' transportation, and after four years in the case of a ten years' sentence; that is if the conduct be good, 575-582. 603, 604——Practice as to the scale and payment of gratuities, 583, 584. 597, 598. 605-607. 618-626——None under sentence of penal servitude have yet been discharged, 579, 580——Outfit on leaving the prison, 585, 586. 631——Practice in sending the prisoners to their homes, 586——Practice in sending those who have no homes to the place of conviction, 587-602.

Particulars as to the system of agricultural labour and the handicraft works pursued at Parkhurst; the main employment is by spade labour, 605-617. 686-692——Power of the governor of the prison to hold the licence for three months, if by doing so anything can be done for the boy's benefit, 607——Proficiency, generally speaking, of the boys at the several descriptions of work allotted to them; they do not, however, remain sufficiently long to attain an adequate knowledge of trades, 613-617. 673-679. 700-707.

Great improvement if the boys from Parkhurst were sent to the colonies as emigrants, 627——Great difficulty in procuring employment for the boys in this country, 629-632——List of persons for whom employment was procured by the governor of Parkhurst; they are almost all doing well, 629, 630——Particulars relative to prisoners for whom employment has been procured by the chaplain, by witness, and others, 630-634. 636. 641——Constant practice of those discharged on licences to migrate, or go upon the tramp, 633, 634. 640——Objection in the colonies to the reception of the boys on account of their unsettled habits, 633, 634.

Injurious effect upon the character and conduct of the boys through the immoral and wretched state of their homes, 634-639——Employment on ship-board is an excellent mode of disposing of the boys, 642——Witness delivers in a report of information received relative to 151 licensed prisoners during the four quarters ending respectively 31 March, 30 June, 30 September, and 31 December 1855, showing respectively the date of discharge, date of information afforded, and particulars as to their conduct, 643-646, and *Ev.* (*First Rep.*) *p.* 56-61——Out of 151 discharged prisoners, it is known that 134 have turned out satisfactorily, and seventeen not satisfactorily, 647, 648.

Besides those discharged in 1855, 148 others have been discharged since the passing of the Act, up to 31 December 1855, with tickets of leave, of whom nothing has been heard, 650-652——Out of 299 licensed prisoners only nine licences have been revoked, 653-655——Frequent instances of discharged prisoners wishing to revisit Parkhurst, and being grateful for their treatment there, 656——Evasion at present of the Act if boys leave the United Kingdom and Channel Islands, 657——Recommendation that there be no restriction as to place, and that emigration, &c. be allowable, 657-662——Form of the licence now issued, 659, 660.

As regards those prisoners not discharged till the expiration of their sentence, it has not been attempted to procure employment for them, nor is there any system of information as to their subsequent career, 663-671——Those discharged on licences are encouraged to correspond with the governor and chaplain, 672——Moral as well as physical improvement of the boys through their treatment at Parkhurst, 673-679——Estimate that while about eighty per cent. of licensed adults reform, not more than seventy per cent. of licensed juveniles can be calculated on, 681-685. 708, 709.

Reference to the circumstance that in Aberdeen, and probably in other places, there is a class of persons who systematically endeavour to entrap and lead into fresh crime boys on their discharge from prison, 693-697——The age on discharge from Parkhurst varies between eighteen and twenty-two; 698——Witness has no reason to believe that ticket-of-leave men train or tempt boys to crime, 699.

All prisoners hitherto discharged on licences were under sentence of transportation in 1853; 710-712——According to the present regulations, tickets of leave are not to be granted to any sentenced to transportation subsequently to 1853, or to any under sentence of penal servitude, 713-717——The result in regard to boys discharged, through good conduct, with licences, cannot be taken as any precedent for the result in the case of boys not discharged till the expiration of their sentence, 721-725.

The Brixton prison, under witness's superintendence, is devoted to women under sentence of transportation or of penal servitude, 726-728——Calculated increase yearly in the number of female convicts to be dealt with, as sentenced to transportation or penal servitude, 729-733——Since the Act of 1853, 239 female prisoners have been discharged from Brixton with licences, 734-737——Only seven licences have hitherto been revoked, 736——Great difficulty in the prison management of the worst class of female convicts, 738-744.

Incapability, through ill health, of great numbers of female convicts to serve out their full term of penal servitude; official communication hereon from witness to the Home Secretary, dated 11 April 1855; 738-747——Particulars as to the gratuities to female convicts, and the mode of payment of the same, 748——Steps taken to prevent the public character of the women as convicts being injurious to them when in search of

Reports, 1856—*continued.*

*O'Brien, Captain Donatus.* (Analysis of his Evidence)—*continued.*

employment in this country, 748——Very frequent instances in which discharged female convicts relapse into crime, and are reimprisoned, 749. 751.

Great difficulties in the way of the employment of female convicts when discharged in this country, 749. 759-762——Their reformation, is practically almost impossible, 749. 751. 759-761——Suggestion that certain measures be adopted through means of voluntary agencies, irrespective of Government, to carry out the emigration of well-conducted females under thirty years of age, 749-758. 768-780——Strong objection to the transportation of female convicts in an unreclaimed state, on account of the objections of colonists, and the injury to the colonies, 750. 753. 762-767——Expediency and practicability of sending these females to the colonies without any brand upon their character, 752-755. 768-772.

[Second Examination.]—Female convicts are sent in the first instance to Millbank prison in a state of probation, and thence to Brixton prison, 781-785——Intention about being carried out to send well-conducted females from Brixton to the institution at Fulham, where they are to receive industrial training before discharge, 782, 783, 786-790——Official notice, sanctioned by the Home Secretary, to female convicts in regard to their treatment, 783. 798, 799——Information as to the Fulham institution; particulars can best be supplied by Colonel Jebb, 787-797. 827-829.

Explanation relative to the two classes of discipline at Millbank, namely, the probation class and the third class; notice to the convicts hereon, 798-808. 830, 831——Much fewer prisoners at Brixton in separate confinement than in association, 809, 810——Manner in which association is carried out; architectural arrangements for the purpose, 809-822——Association or separate confinement depends on conduct, 809. 811——Occupation of the prisoners in needlework and washing, 823——Arrangements as to exercise, 824-826——Practice formerly duly to carry out sentences of transportation of females, 834, 835.

By recent regulations thirty-eight prisoners have been sent to Parkhurst, under sentence of imprisonment for from one year to two years, 836-840——These prisoners are not kept in any way distinct from those under the heavier sentences, 841——Few female prisoners at Brixton under sixteen years of age, 843——Much greater difficulties of discharged females than of males to procure employment, and much greater danger of relapsing into crime, 846-852——A probationary period of four months in separate confinement does not affect the health, 853——Reference to the establishment of late years of the "Elizabeth Fry," and other private refuges for females discharged from prison, 854-859——No calculation can yet be formed as to the proportion of licensed females who relapse into crime, 860-862.

*Outfit of Licensed Prisoners.* Articles comprised in the outfit of ticket-of-leave prisoners on leaving Parkhurst, *O'Brien* 585, 586. 631.

P.

*Parkhurst Prison.* Immediate superintendence of witness over Parkhurst prison, *O'Brien* 530. 569——There were 383 juvenile prisoners under sentences of transportation and penal servitude on 11th March last, *ib.* 532——Parkhurst contains prisoners sentenced to penal servitude or transportation at the age of sixteen and under; and also, since a recent period, prisoners of the same age who are sentenced to between one and two years' imprisonment, *ib.* 570-572——Total of 423 prisoners on the 6th of April last, of whom thirty-six were sentenced for short terms, *ib.* 573, 574——Gradual diminution of late years in the number under sentence of transportation, *ib.* 574.

Details relative to the general system of treatment pursued at Parkhurst, *O'Brien* 575 *et seq.*——Nature of the separate system pursued, *ib.* 575. 689——None under sentence of penal servitude have yet been discharged, *ib.* 579, 580——Proficiency, generally speaking, of the boys at the several descriptions of work allotted to them; they do not, however, remain sufficiently long to obtain an adequate knowledge of trades, *ib.* 613-617. 673-679. 700-707.

Frequent instances of discharged prisoners wishing to revisit Parkhurst, and being grateful for their treatment there, *O'Brien* 656——As regards those prisoners not discharged from Parkhurst till the expiration of their sentences, it has not been attempted to procure employment for them, nor is there any system of information as to their subsequent career, *ib.* 663-671——Those discharged on licence are encouraged to correspond with the governor and chaplain, *ib.* 672——Moral as well as physical improvement of the boys through their treatment, *ib.* 673-679.

The treatment of each boy has no reference to his antecedents, but merely to his capabilities, *O'Brien* 686-692——The age of discharge from Parkhurst varies between eighteen and twenty-two, *ib.* 698——By recent regulations thirty-eight prisoners have been received under sentence of imprisonment for from one year to two years, *ib.* 836-840——These prisoners are not kept in any way distinct from those under heavier sentences, *ib.* 841.

*See* also *Gratuities* (*Prison Labour*). *Juvenile Offenders.*

Reports, 1856—*continued.*

*Patronage Societies.* Approval of the formation of district societies of patronage, as in France, with a view to obtaining employment for discharged convicts, *Jebb* 1208–1210——Belief that there would be no jealousy on the part of the labouring classes in the event of local societies for procuring employment for discharged convicts, *ib.* 1209, 1210.

Suggestions as to the kind of institution most desirable to meet the case of discharged prisoners, *Hill* 1913 *et seq.*——Successful operation of the Sociétés de Patronage, conducted on the voluntary principle, in France, Bavaria, Tuscany, and the United States, *ib.* 1914–1920——Failure of Sociétés de Patronage in Austria, because they were undertaken by Government, *ib.* 1915, 1916——In furthering emigration, and in numberless other ways, the proposed voluntary societies for succouring discharged prisoners would be most efficacious, and without any great expense, *ib.* 1931–1935——Explanation that there are no Sociétés de Patronage for male adults in France, *ib.* 1940, 1944, 1945——The proposed societies of patronage would be equally useful in the case of provisional as of absolute discharge, *ib.* 1946–1950.

Letter from Mr. Hill to the chairman of the Committee, dated 27 June 1856, with reference to Sociétés de Patronage in France, and to the particular institution called La Solitude de Nazareth; referring also to the views of M. Beranger upon such institutions, *App.* (*Second Rep.*) *p.* 193, 194.

*See* also *Intermediate Establishments. Refuges for Discharged Prisoners.*

*Penal Colonies.* A new penal colony is most highly desirable, not only in reference to female convicts, but as an outlet to the worst class of male offenders now retained in this country, *Waddington*, 111–115. 118–122. 190. 202–205——Necessity of new penal colonies being created in districts not yet settled, *ib.* 190.

Impossibility, on account of local feeling or natural disadvantages, of creating an eligible penal settlement in any of the colonies; examination hereon with reference to several colonies, all more or less ineligible for the purpose, *Elliot* 291–294. 369–371. 392–421. 442–449. 461–468——Success of transportation and penal settlements in the event of a large free population, and a demand for convict labour, *ib.* 404. 411, 412——Doubt as to any immigration of free settlers and capitalists into any new colony where convicts may be sent, *ib.* 413, 414——As regards penal settlements on the Falkland Islands, the Hebrides, and other similar places, a penitentiary on such a place as Wandsworth Common would be just as eligible and less expensive, *ib.* 415–421. 510–513——Importance in dealing with the question of transportation, of considerations as to the eventual freedom of the convicts, *ib.* 433–438——Inadequacy of military pensioners as a means of settling a new colony, *ib.* 518–523.

Concurrence in Mr. Elliot's objections to the formation of a new penal colony, *Jebb* 1109. 1355, 1356. 1367, 1368. 1444——Approval of a convict establishment in any colony where there is a decided demand for labour on public works, and subsequently in private service, *ib.* 1180–1183——Inexpediency of forming a new penal settlement, not only on account of the great expense, but because of the want of free settlers to employ the convicts and to associate with them, *Lord Grey* 1693–1696. 1740–1746.

Anticipated success of a penal establishment on the mark or task system in one of the islands of the Pacific, *Maconochie* 3763–3765. 3769–3774——Expediency of continuing transportation if there are colonies in actual want of labour, and in which there may be opportunities for their ultimate absorption in society and reformation, *Lord Campbell* 3973. 3981–3984. 4008, 4009. 4025.

*See* also *Canterbury Settlement. Carpentaria, Gulf of. Chatham Islands. Colonists. East Australia. Falkland Islands. Good Hope, Cape of. Harvey Bay. Hebrides. Hudson's Bay Company's Territories. Moreton Bay. New South Wales. New Zealand. Norfolk Island. North American Colonies. North Australia. Port Essington. Transportation. Vancouver's Island.*

*Penal Servitude:*

1. *Power under the Act* 16 *&* 17 *Vict. in regard to Transportation or Remission of Sentence.*
2. *Practice to exact the Sentence without Remission.*
3. *Bar to Reformation and Prison Discipline under the present System.*
4. *Great Importance of Remission; how it may best be carried out.*
5. *Recommended Assimilation, as regards Term, to Sentences of Transportation.*
6. *Statement as to the Number of Penal Servitude Sentences.*

1. *Power under the Act* 16 *&* 17 *Vict. in regard to Transportation or Remission of Sentence:*

Doubt as to the power to send to Western Australia convicts under sentence of ten years' penal servitude, *Waddington* 167——Power under the Act to grant licences to penal servitude men, *Whitty* 1035, 1036——Doubt as to its being necessary to alter the Act in order to pass a sentence of five years' penal servitude, reducible to four years on good

Reports, 1856—*continued.*

*PENAL SERVITUDE*—continued.

1. *Power under the Act* 16 & 17 *Vict. in regard to Transportation, &c.*—continued.

good conduct, *Jebb* 1265–1269——Intention of the Act, though not verbally carried out, that there should be no remission of penal servitude sentences, *ib.* 1319–1323.

Power of transportation in case of sentence of penal servitude, *Lord Grey* 1721; *Hill* 1906——Equal claim legally to a ticket of leave in the case of a sentence of penal servitude as of transportation, *Hill* 1821, 1822. 1872, 1873. 1884, 1885——Wording of the 9th section, showing that as regards the granting of a licence, the Act is enabling and not compulsory, *ib.* 1872, 1873.

2. *Practice to exact the Sentence without Remission:*

Statement showing that it has been the practice to exact the full term of direct sentences of penal servitude, *Waddington* 217. 231–233. 240–242.

3. *Bar to Reformation and Prison Discipline under the present System:*

Evidence showing that sentences of penal servitude have a much more unfavourable effect upon the conduct and labour of the prisoners than sentences of transportation have, where the detention depends upon the conduct, *Whitty* 908–922. 933–936. 954–956; *Jebb.* 1081–1088. 1194–1198——Unfavourable effect as regards moral improvement, *Whitty* 982——Anticipated unfavourable effect of penal servitude sentences as compared with sentences of transportation under the Act of 1853, though in a less degree than as compared with the sentences previous to that Act, *ib.* 989–1002.

Absence of incentive to industry or good conduct under the present system, *Lord Grey* 1687, 1688. 1692. 1711, 1712——Ruin of prison discipline and efficiency if the fear of punishment and not the remission of sentence be the inducement to good conduct, *ib.* 1688, 1689. 1711, 1712——Strong objection to the present system, whereby the principle of time is mainly observed, relative to the discharge of ticket-of-leave men, *Hill* 1941–1943——Evil effect of penal servitude sentences, as shown by the bad conduct of the men in the "Stirling Castle," *Thwaites* 2835–2839. 2914–2920. 2941.

Witness is strongly opposed to sentences of penal servitude, on account of the absence of any inducement to good conduct, *Maconochie* 3675, 3676. 3682, 3683. 3703——Objection to all time sentences, *ib.* 3682, 3683. 3703–3705——Witness laments the change effected in secondary punishments by the Act of 1853, *Lord Campbell* 3961, 3962——Reference to reports recently received from Bermuda that in the case of the penal servitude men discipline is impracticable, *Elliot* 4037–4040.

Resolution that it appears in evidence before the Committee that bad effects upon the discipline of convicts on the public works have already been caused by the regulations under which it has been made known that no tickets of leave or other remission of sentence would in any case be granted to men sentenced to penal servitude, *Third Rep. p.* iii.

4. *Great Importance of Remission; how it may best be carried out:*

Expediency, if the ticket-of-leave system be found to answer, of extending it to cases of penal servitude, the terms in such cases being, in the first instance, longer than at present, *Waddington* 144–147. 160. 216. 248——Improvement, if there were sentences of penal servitude for five years, with the power of shortening the term, in case of good conduct, to three years, *ib.* 144–147. 160. 216. 248——Tickets of leave might be granted in the case of sentences to penal servitude for ten years, *ib.* 153.

Evidence strongly in favour of a maximum sentence and a minimum term in cases of penal servitude, *Whitty* 957, 958; *Jebb* 1089–1091. 1110–1129. 1159, 1160. 1265–1269. 1360–1365. 1387. 1389–1393; *Maconochie* 3683 *et seq.*——In recommending a maximum and minimum term of penal servitude, witness does so without reference to a licence on discharge, *Jebb* 1255, 1256——In furtherance of witness's plan of secondary punishment, there should be clear power to send penal servitude men to Western Australia, *Crofton* 1586–1588——Suggestion that sentences of transportation be entirely replaced by sentences of penal servitude, the Secretary of State having power to mitigate the sentence by a certain period under licence in this country or the colonies, *Lord Grey* 1721–1730. 1752, 1753, and *App.* (*Second Rep.*) *p.* 195.

Great importance of a power of remission of penal servitude as an inducement to good conduct, *Lord Grey* 1688. 1708. 1711, 1712. 1762; *Hill* 1861, 1862. 1876; *Sir A. Alison* 2075–2078. 2084, 2085; *Walpole* 2467–2475. 2554–2558; *Thwaites* 2833–2848. 2941, 2942. 2956–2961; *Sir W. Erle* 3310–3314. 3317. 3340–3342; *Sir R. Mayne* 3395-3397; *Right Hon. N. Ball* 3630; *Elliot* 4041——Penal servitude men should not, in fact, be debarred the privilege of a ticket of leave, *Hill* 1861. 1876——Importance, generally, of a modification or slight remission of sentence as an inducement to reformation, *Shepherd* 3112, 3113. 3136–3138; *Sir C. Cresswell* 2973-2976. 2994–2999. 3004–3006. 3021. 3024–3033——The remission should be limited to one-sixth, and in some cases to one-twelfth, of the sentence, *Shepherd* 3115, 3116.

Mode

Reports, 1856—*continued.*

*PENAL SERVITUDE*—continued.

4. *Great Importance of Remission: how it may best be carried out*—continued.

Mode of carrying out a system of remission considered; approval of a five years' sentence of penal servitude, to be remitted, conditionally, to a term of not less than four years, *Sir W. Erle* 3317. 3336, 3337. 3340–3342. 3348–3352——Belief that it is intended to extend tickets of leave to penal servitude sentences, *Sir R. Mayne* 3445, 3446——Suggestion that the judge be empowered to pass a sentence of penal servitude for five years, with the understanding that the prisoner may by good conduct reduce the term to four years, but not further, *Right Hon. N. Ball* 3630–3634.

Further statement by Earl Grey as to the importance of remission in case of sentences of penal servitude, *App.* (*Second Rep.*) *p.* 195——Recommendation by Earl Grey with reference to remission of penal servitude sentences on condition of residence in the colonies, *ib.*

Resolutions of the Committee that every punishment by penal servitude should include, first, a certain fixed period of imprisonment and hard labour on public works, to be undergone at all events; secondly, a further period, which should be capable of being abridged by the good conduct of the convict himself, *Third Rep. p.* iii——Resolution that the sentences of penal servitude now in force might be adopted, with some few changes, as the fixed period thus recommended, *ib.*

5. *Recommended Assimilation, as regards Term, to Sentences of Transportation:*

There is no just ground or reason for making the terms of penal servitude less than the corresponding terms of transportation; the latter terms should be returned to, *Lord Grey* 1688–1690. 1713. 1718. 1721. 1730. 1762; *Hill* 1819–1825. 1829——The fourth section should, in fact, be struck out, *Hill* 1820. 1828. 1830——Recommendation by Earl Grey that no sentence of penal servitude shall be for a shorter period than seven years, *App.* (*Second Rep.*) *p.* 195.

Resolution that sentences of penal servitude prescribed by the Act should be changed and lengthened, so as to be identical with the terms of transportation for which they are respectively substituted, *Third Rep. p.* iii.

6. *Statement as to the Number of Penal Servitude Sentences:*

Calculation that 2,000 will be the annual number of males, and 300 the number of females likely to be sentenced to penal servitude and transportation under the present system, *Jebb* 1138, 1139. 1223–1225——Circumstance of there being of late many more sentences of penal servitude than of transportation, *ib.* 1315——There were 504 sentences in 1853, 2,108 in 1854, and 1,992 in 1855, *App.* (*First Rep.*) *p.* 182.

*See* also *Bermuda and Gibraltar, Certainty of Punishment. Commutation of Sentence. Crime. Deterrent Punishment. Gradation of Punishment. Long Imprisonments. Remission of Sentence. Uncertainty of Punishment.*

*Pentonville Prison.* Pentonville was built in consequence of the Report of Sir W. Molesworth's Committee, in 1838, in condemnation of transportation, *Elliot* 275.

Exceptions taken to the present system of labour at Pentonville and on the public works, *Mayhew* 3524–3526.

*Perpetual Imprisonment.* See *Life Sentences.*

*Place of Conviction.* Practice at Parkhurst of sending those boys who have no homes to the place of conviction, *O'Brien* 587–602——Practice of sending public works prisoners who have no homes to the place of conviction, *Whitty* 889–894——Approval of sending those who are without homes to the place of conviction, *ib.* 1004–1007.

Advantage if, save in exceptional cases, the men were debarred from returning to the place of conviction, *Smart* 2142–2145. 2167. 2179. 2189–2201——Under special circumstances only should the ticket-of-leave man be sent to the place of conviction, *Walpole* 2475–2481. 2561, 2562——The more confirmed criminals should, on release, be debarred from returning to the scene of their offences, *Thwaites* 2961.

*POLICE SURVEILLANCE:*

1. *As to the Manner in which carried out generally.*
2. *Instructions given to the Metropolitan Police.*
3. *Ireland.*
4. *Scotland.*
5. *Prussia.*
6. *Want of Notification to the Police when Licences are granted.*
7. *Policy of the Principle of Surveillance considered.*

1. *As to the Manner in which carried out generally:*

Voluntary information given in some instances by the local police in regard to the conduct of licensed convicts, *Waddington* 244, 245——The police surveillance with regard to ticket-of-leave men does not go to any great extent, *O'Brien* 557——Complaint by

Reports, 1856—*continued.*

*POLICE SURVEILLANCE*—continued.

1. *As to the Manner in which carried out generally*—continued.

several men where licences have been revoked, that they have been duly interfered with and pointed out by the police, *Whitty* 903–907——Considerate manner in which the Birmingham police act towards ticket-of-leave men, *Hill* 1790. 1800——Nature of the police surveillance in Glasgow over ticket-of-leave men; discountenance of any interference where the man is well conducted, *Smart* 2124–2128. 2168–2172.

Nature of the surveillance or interference exercised by witness and the metropolitan police generally in regard to ill-conducted ticket-of-leave men; notice is never taken of the well conducted; *Loome* 2621, 2622. 2628, 2629. 2644–2648. 2678, 2679. 2718–2728——Reports are made to the superintendents or Commissioners if the men be notoriously ill conducted, *ib.* 2686. 2720–2727——Undue interference on the part of the police, so that ticket-of-leave men occasionally lose honest employment thereby, *Thwaites* 2819–2825. 2927–2929.

Interference of the police explained as only taking place where the ticket-of-leave men actually commit offences; a general surveillance, however, is very properly exercised; *Brennan* 3253–3256. 3259, 3260. 3267–3273. 3281–3284——Explanation relative to, and defence of, the mode in which the police carry out their instructions, *Sir R. Mayne* 3380. 3412, 3413. 3437–3441——Explanation as to the interference of the police under the Act 2 & 3 Vict. c. 47, in the case of ordinary thieves or suspected characters, *ib.* 3377. 3421–3424. 3435–3441——Belief as to the unduly adverse feeling of the police towards the ticket-of-leave system, *Mayhew* 3501, 3502.

2. *Instructions given to the Metropolitan Police:*

Written instructions under which the Metropolitan police exercise surveillance and make reports, *Loome* 2645–2648. 2684–2689. 2711, 2712. 2718–2728; *Brennan* 3253, 3254. 3273–3280——Explanation relative to the instructions issued by witness to the police in regard to their observation of ticket-of-leave men; general instructions not to interfere with them in the same way as with ordinary bad characters; *Sir R. Mayne* 3374–3379. 3414–3427. 3430. 3467——Practice in regard to police reports to the Home Office in the case of ticket-of-leave men still criminal, but unconvicted; witness has no instructions on the subject; *ib.* 3384. 3387. 3460–3465——Understanding of witness in issuing the police instructions that the ticket of leave was some criterion of reformation, and that therefore the police should interfere the less, *ib.* 3415–3420. 3430.

3. *Ireland:*

System adopted by witness on the discharge of any unreformed convict of noting the same to the local police, *Crofton* 1556–1559.

4. *Scotland:*

Unsuccessful and injurious result of the ticket-of-leave system in Glasgow, and generally, on account of the absence of intimation as to the return of the men, and the want of intercommunication among the police, so as to insure a proper superintendence, *Smart* 2097 *et seq.*——Actual want of police in many parts of Scotland as a means of counteracting the operations of dishonest ticket-of-leave men, *ib.* 2100–2102. 2106, 2107. 2152–2154. 2198.

5. *Prussia:*

Practice in regard to the surveillance and interference of the police in the case of discharged prisoners, *De Katte* 3814–3816. 3886, 3887. 3937–3943. 3949–3952.

6. *Want of Notification to the Police when Licences are granted:*

Evil in the local authorities not receiving any intimation of the return of released convicts, *Smart* 2097 *et seq.*; *Hart* 2268; *Sir M. Barrington* 2416; *Shepherd* 3209–3211; *Sir R. Mayne* 3406–3411——Suggested form of instruction from the Secretary of State to the sheriff, and through him to the police, as to the release of ticket-of-leave men to any place, *Smart* 2102. 2133–2141. 2167–2172. 2198, 2199——Circumstance of no notification being conveyed to witness of the release of ticket-of-leave men in London, *Sir R. Mayne* 3406, 3407.

Resolution of the Committee that every convict, on his release with a ticket of leave, ought to be reported to the police of the town or district to which he is sent, *Third Rep. p.* iv.

7. *Policy of the Principle of Surveillance considered:*

Objection to a system of surveillance in the case of licences, or to limiting the convict to certain localities, *Waddington* 213, 214. 218–220. 243, 244——Unwillingness of the Home Office to adopt any system of surveillance in regard to the ticket-of-leave men, *ib.* 243, 244——Witness objects to any system of surveillance, *Jebb* 1093. 1096. 1108.

The police should exercise a surveillance without any interference with well-conducted men, *Thwaites* 2826–2829. 2932–2937——Inexpediency of any specially strict police surveillance in the case of ticket-of-leave men, *Sir C. Cresswell* 3034–3037——Difficulty

in

Re orts, 1856—*continued.*

*POLICE SURVEILLANCE*—continued.

7. *Policy of the Principle of Surveillance considered*—continued.

in carrying out a generally recognised system of police surveillance over licensed prisoners, *Sir R. Mayne* 3431–3434. 3464——Advantage of a proper police surveillance over licensed prisoners, *Lord Campbell* 3980. 4000.

*Port Essington.* The climate of Port Essington is too capricious for a penal colony, *Walpole* 2534.

*Portland Prison.* Accommodation for 1,520 convicts in the Public Works Prison at Portland, *Whitty* 867——Nature of the convict labour for the public works, *ib.* 876——Instance of subordinate conduct on the part of penal servitude prisoners on account of the non-remission of their sentences, *ib.* 908–913——There is no reason why the labour at Portland should be more injurious to health than the ordinary labour of working men, *ib.* 943–953. 959–968.

Excellent discipline and exemplary conduct of the prisoners under sentence of transportation, *Jebb* 1047. 1051. 1085, 1086——Feeling of disappointment among the convicts in consequence of transportation not being carried out; their good behaviour under the circumstances, *ib.* 1049. 1051. 1086. 1136, 1137——Excellent feeling observed by those to be released on licence on the occasion of an outbreak among the penal servitude men, *ib.* 1088——Considerable and increasing value of the convict's labour on the public works, *ib.* 1139–1141——Lower standard of discipline at Portland since the non-remission of a portion of the sentence, *ib.* 1194–1198.

*Portsmouth Prison.* There is accommodation for 1,020 convicts in the prison, *Whitty* 867——Nature of the convict's labour, *ib.* 876——Better results anticipated from the prison when hulk convicts are no longer sent there, *Thwaites* 2877–2880. 2940.

*Portugal.* Practice in carrying out the system of transportation; beneficial effect of transportation to the transmarine provinces, *App.* (*Third Rep.*) *p.* 72.

*Prevention of Crime.* Greater attention should be paid to means of prevention of crime, *Elliot* 420. 456——The treatment of crime by means of juvenile reformatories should be improved, *ib.* 420. 456–460——Main importance of getting rid as much as possible of the causes of aggravated offence, *Maconochie* 3680, 3681. 3701. 3703.

*See* also *Deterrent Punishment. Reformatory Punishment.*

*Prison Accommodation.* The present establishment at home and at Gibraltar, Bermuda, and Western Australia would accommodate all the convicts likely, under the new system of penal servitude, &c., to be on the hands of Government, *Jebb* 1139. 1182. 1446——Calculated distribution of the convicts, and application of their labour under the continuance of the existing system, *ib.* 1223.

*Prison Discipline.* Inequality at first of the same punishment to different prisoners on account of the difference in their previous habits, *Whitty* 966, 967——Excellent moral effect of a judicious prison discipline applied for a sufficient period, *Jebb* 1064——Importance of keeping long-term and short-term prisoners in different prisons, *ib.* 1310. 1419.

Steps first taken by the directors of convict prisons in Ireland to remedy the great overcrowding of the prisons, *Crofton* 1473–1479——Assimilation after a time to the English system of separate confinement and employment on public works, *ib.* 1473. 1479——Previously to the Act of 1854 there was no legal authority for the management of the Irish convict prisons, *ib.* 1474–1478——Separation of the juveniles from the adults adverted to, *ib.* 1480, 1481. 1486——Importance, for the sake of individualising, of small numbers of associated prisoners, *ib.* 1506–1509.

Propriety of more stringent discipline and regulations in the case of confirmed criminals, than of those willing to reform, *Thwaites* 2956–2961——Suggestions for rendering prison discipline more deterrent and a better substitute for transportation, *Shepherd* 3098–3109. 3143, 3144. 3183–3192——Inexpediency of making prison labour the means of punishment, *Mayhew* 3523–3526.

Improvement necessary in the status and character of the governors and inferior officers of prisons, *Maconochie* 3745.

*See* also *Association of Convicts. Brixton Prison. Corporal Punishment. Dartmoor Prison. Education of Prisoners. Female Convicts*, 1. *Gratuities (Prison Labour). Hulk System. Industrial Prison Labour. Intermediate Establishments*. 1. *Liberty. Long Imprisonments. Mark or Task System. System. Millbank Prison. Movable Prisons. Notices to Convicts. Parkhurst Prison. Penal Servitude*, 2, 3, 4. *Portland Prison. Public Works. Reformatory Punishment. Remission of Sentence. Self-supporting Prisons. Separate System. Short Imprisonments. Transportation*, 5, 6.

*Probation.* See *Long Imprisonments. Mark or Task System. Remission of Sentence. Separate System. Short Imprisonments. Tickets of Leave, or Licences to be at Large.*

Reports, 1856—*continued.*

*Proceedings of the Committee. Third Rep. p.* v–xvii.

*Prussia.* System in Prussia of punishing secondary offences by employment on public works, and when in prison, in the manufacture of certain articles which are publicly sold, *De Katte* 3800–3811. 3830–3834. 3870–3875——Power sometimes exercised of the Home Department, partly to remit sentences in consideration of good conduct, *ib.* 3812, 3813——Explanation as to the operation of philanthropic associations in aiding discharged prisoners to procure employment, or to emigrate, and in visiting them in prison, 3816, 3817. 3835. 3900–3924. 3953–3960——Regulations to the effect that the more serious offenders are on discharge obliged to return to their own communes, *ib.* 3818–3827. 3929, 3930. 3944–3946.

Practice of imprisonment in the Zuohthauses, in the case of the more serious offenders, *De Katte* 3821–3323. 3840 *et seq.*——Feeling in Prussia as to the want of transportation; reference hereon to a small penal colony formerly, which was abandoned, *ib.* 3836. 3892. 3931–3936——Different periods of imprisonment, embracing imprisonment for life, and different modes of the more aggravated cases, *ib.* 3837–3869. 3882——Short of imprisonment for life twelve years is generally the maximum term, *ib.* 3841, 3842——The ticket-of-leave system has not been tried, *ib.* 3883–3885——Complaints sometimes received in regard to liberated prisoners, *ib.* 3927–3930——Superintendence of the prisons, and appointment of the prison officers by the governments of the different provinces, *ib.* 3947, 3948.

Official report on the criminal code and system of penal discipline, together with the opinion of the Government as to punishment by transportation, *App.* (*Third Rep.*) *p.* 55.

*Public Opinion.* Natural public aprehension in regard to the working of the system of tickets of leave, *Waddington* 180, 181——Undue alarm as to the consequences of the system, *Jebb* 1061. 1069; *Lord Grey* 1778——There have been great difficulties and strong prejudices to overcome in regard to tinket-of-leave men, *Jebb* 1069——A large portion of the public are unfavourable to tickets of leave, on the erroneous ground that they are a substitution for imprisonment, *Hill* 1787–1789——The prejudice on the part of the public against the employment of discharged prisoners is rapidly disappearing, *ib.* 1804–1807—— Advantage if in public estimation licensed prisoners were more highly regarded than those who work out their whole sentences, *Mayhew* 3508–3512.

*Public Works.* System of associated employment on public works at home, as the second part of a sentence of transportation or penal servitude, *Waddington* 111. 233——On 11th March last there were 3,729 male convicts in the public works prisons, *O'Brien* 532——The public works prisons are the hulks at Woolwich, and the prisons at Portsmouth and Portland, *ib.* 533.

Accommodation in the several prisons for public works, *Whitty* 865. 867——Care taken in recording the conduct and character of the prisoners; belief that the estimate or record is mostly reliable, *ib.* 875. 900, 901. 969–973——Varying nature of the employment, *ib.* 876——Lighter work assigned if the ordinary labour prove injurious to health, *ib.* 877——Regard had to each prisoner's former occupation, *ib.* 878.

Regulations in the notice previously to 1853 in regard to convicts on public works, *Jebb* 1047——Very satisfactory operation of the notice in producing exemplary conduct, as entitling the convicts to a remission of part of the period before embarkation for the colonies, *ib.* 1047——Great importance of the useful public employment of convicts, arsenals, &c., at home, *ib.* 1139. 1180–1182. 1186——Good order and proper feeling on the part of public works prisoners, *ib.* 1202–1204——Facilities for judging of the conduct of the men when removed to the public works, *ib.* 1246–1248.

Approval of the system of employment on public works, as at Gibraltar, &c., *Sir C. Cresswell* 2990–2993——Suggested system of labour in silence on public works, as one portion of witness's plan of punishment, *Shepherd* 3099. 3105–3109——The best substitution for transportation is a well-defined and certain punishment, by employment on public works, *Lord Campbell* 3970. 3998, 3999. 4010–4014. 4025.

*See* also *Bermuda and Gibraltar. Dartmoor Prison. Falkland Islands. Gratuities* (*Prison Labour*). *Moveable Prisons. Portland Prison. Value of Convict Labour.*

R.

*Recommittals.* Improvement suggested in the present expensive system of recommittal of ticket-of-leave men, *Shepherd* 3145–3147.——*See* also *Revocations of Licences.*

*Reconvictions.* Reference to a return (App. Second Rep. p. 203), of the number of persons recognised as having been in custody more than once for felony during the last seven years, *Sir R. Mayne* 3398–3400.

Reports, 1856—*continued.*

*Reformatory Punishment.* Importance of an extension of the reformatory system in this country, *Jebb* 1211, 1212; *Lord Grey* 1777——Nature of the treatment and discipline recommended in case of two years' imprisonments, *Jebb* 1302. 1306–1310——In the case of short imprisonments, there is, in fact, no time for reformatory action, and much evil is the consequence, *Jebb* 1417, 1418; *Hill* 1876. 1888; *Sir C. Cresswell* 2972, 2973. 3004, 3005; *Sir R. Mayne* 3365. 3388–3394. 3398–3400. 3442–3444——Greater prospect of reformation by transportation than by any system of transportation at home, *Lord Grey* 1691; *Sir A. Alison* 1986–1988. 2013. 2015; *Walpole* 2544, 2545; *Sir C. Cresswell* 2975. 2981. 2987; *Sir W. Erle* 3303. 3307; *Sir R. Mayne* 3358 *et seq.* ——Practice adopted by witness with considerable success during the last fifteen years, immediately to discharge the less hardened juveniles and adult offenders, placing them under guardians, *Hill* 1811–1812. 1814–1816——Sentences for secondary punishments generally are less severe than they ought to be, *ib.* 1887–1889.

There should be three modes of punishment for the correction and reformation of criminals, namely, imprisonment and industrial labour in the case of the young and less hardened, and transportation in the case of the adult, *Sir A. Alison* 1986, 1987. 2007, 2008——Slight chance of reformation of hardened criminals in this country when under licence, after the period of employment on public works, *ib.* 2009–2016——When sentences of transportation were duly carried out, as before the Act of 1853, a convict was rarely tried a second time in subsequent years, *Hart* 2221. 2278, 2279——Expediency of penal servitude being deterrent, whilst at the same time it may be partly remitted, *Walpole* 2557, 2558——Anxiety of convicts who wish to reform to be sent out of the country, *Thwaites* 2946–2948.

There should be three gradations of punishment, namely, solitary confinement, as at present, labour in silence on public works, and employment in a factory or some such institution; the latter gradation to admit of considerable liberty, and to be but slightly penal, *Shepherd* 3098 *et seq.* 3183–3192——Approval of the tendency of late years to substitute reformatory for purely corrective punishment, *ib.* 3155–3168——Difficulty in carrying out a general system of penal reformatories for prisoners before discharge, *ib.* 3169–3171.

Danger if the punishment of offenders be carried out without a strong penance, *Mayhew* 3521–3528——Suggestions for a better regulated and larger increase of punishment in the case of re-convictions of habitual offenders, *ib.* 3530. 3568–3572——Strong approval of a system of reformatory labour following upon penal servitude; suggestions hereon, *ib.* 3583 *et seq.*

Witness understands, from general report, that transportation has frequently been attended with very salutary reformatory effect, *Right Hon. N. Ball* 3621. 3624—— Transportation affords the best if not the only chance of reformation, *Lord Campbell* 3962.

*See* also *Agricultural Labour* (*Convicts*). *Deterrent Punishment*, 4. *Female Convicts*, 1. 3. 4. *Habitual Offenders. Intermediate Establishments. Juvenile Offenders*, 3. *Long Imprisonments. Mark or Task System. Moveable Prisoners. Penal Servitude. Prison Discipline. Public Works. Remission of Sentence. Separate System. Short Imprisonments. Tickets of Leave, or Licences to be at Large. Transportation.*

*Refuges for Discharged Prisoners.* Reference to the establishment of late years of the "Elizabeth Fry" and other private refuges for females discharged from prison, *O'Brien* 854–859——Great advantage if places of refuge and reference were established throughout the country for the employment of discharged prisoners, *Whitty* 1008–1012. 1023, 1024; *Jebb* 1144–1149. 1151. 1156; *Thwaites* 2849–2859. 2882–2910——Advantage in such institutions being managed by private individuals, *Whitty* 1013–1015; *Jebb* 1422. 1433–1436. 1465. 1466; *Thwaites* 2887–2889; *Mayhew* 3595–3603——Approval of voluntary institutions, encouraged by Government support, *Jebb* 1144, 1145. 1148, 1149.

Importance of refuges for the reception of friendless juveniles on discharge from prison, *Jebb* 1144–1149——Views of Lord Palmerston, as conveyed to witness in 1853, in regard to the formation of female refuges, *ib.* 1151, 1152——Useful operation of voluntary institutions for the reception and protection of females, *ib.* 1156–1158——Importance of the public tendency towards the establishment of refuges and reformatories, *ib.* 1156–1158.

Expediency of steps being taken for the help of ordinary prisoners on discharge, as well as for the help of those discharged from the Government or convict prisons, *Jebb* 1420, 1421——Nature of the institution or refuge most desirable for discharged prisoners further considered, *ib.* 1422–1436. 1465, 1466——Satisfactory operation of an institution in Paris for assisting discharged prisoners, *ib.* 1423, 1424——Great importance of refuges for females, *ib.* 1451–1456.

Explanation as to the operation in Ireland of Roman-catholic and Protestant refuges for discharged females, *Crofton* 1568–1573——Ticket of leave under which females are

Reports, 1856—*continued.*

*Refuges for Discharged Prisoners*—continued.

sent to the refuges, *ib.* 1571–1573——The proposed houses of refuge are very desirable; they would be best situated if in some rural district, *Walpole* 2482–2485; *Thwaites* 2887–2889——Five or six would be enough for the whole kingdom, *Thwaites* 2894, 2895.

Obstacles to the extension of houses of refuge for discharged prisoners, *Sir R. Mayne* 3450–3458.

*See* also *Birmingham Discharged Prisoners Aid Society. Dalston Refuge for the Destitute. Elizabeth Fry Refuge. Fulham Female Refuge. Intermediate Establishments. Lusk Female Reformatory. Patronage Societies. Wakefield House of Refuge.*

*Remission of Sentence.* Great importance of the principle and practice of remission as an inducement to good conduct, *Waddington* 144–147. 160. 216. 248; *Whitty* 957, 958; *Jebb* 1089–1091. 1110–1129. 1159, 1160. 1265–1269. 1360–1365. 1387–1393; *Lord Grey* 1688. 1708. 1711, 1712. 1721–1730. 1752, 1753, and *App.* (*Second Rep.*) *p.* 195; *Sir A. Alison* 2075–2078. 2084, 2085; *Walpole* 2467–2475. 2554–2558; *Thwaites* 2833–2848. 2941, 2942. 2956–2961; *Sir W. Erle* 3310–3314. 3317. 3340–3342; *Right Hon. N. Ball* 3630; *Sir R. Mayne* 3395-3397; *Elliot* 4041——Effect of the conduct of the prisoners upon the period before discharge; care taken in recording such conduct, *Whitty* 874, 875——Exceptions taken to the practice in England of remission of sentence as an inducement to reformation, *Crofton* 1519.

In reverting to the scale laid down in 1847, it would be desirable, where a ticket of leave cannot be granted in the colony, to defer for a short time the period at which it is granted at home, *Lord Grey* 1718–1720. 1724. 1736——The worse the conduct of the convict, the longer the period of his penal term should be, *ib.* 1727–1729——Approval of the principle of the Act of 1853, in enabling the prisoner to shorten his sentence by good conduct, *Hill* 1818——Strong objection to any diminution of the time over which a licence holds a discharged prisoner in check, *ib.* 1821. 1824, 1825——Main importance of the stimulus of hope as a means of reforming prisoners, *ib.* 1861, 1862. 1876.

Case of a man sentenced to transportation for a garotte robbery in Glasgow, who was within a year again sentenced to transportation for a similar offence, and who within two years more was sentenced to transportation for life; how he so often was at large witness cannot fully explain, *Sir A. Alison* 1957. 1960. 1966. 2072——Those liberated before time are generally the greatest adepts in deception, the system of chaplain's reports being most erroneous, *ib.* 1965, 2046. 2086——Fallacy in looking on good behaviour in prison as a test of reformation, *Thwaites* 2842. 2875. 2911——Premium on hypocrisy for the sake of the ticket of leave, as at present granted, *Sir C. Cresswell* 2972. 3006. 3031. 3038.

Advantage of a hope of remission of part of the sentence, provided that it be certain that a definite portion, and that the greater portion, of the sentence be strictly carried out, *Sir C. Cresswell* 2973–2976. 2994. 2999. 3004–3006. 3021. 3024–3033; *Shepherd* 3112, 3113. 3136–3138——Propriety of leaving the remission of a short portion of the sentence to the discretion of the Secretary of State, *Sir C. Cresswell* 3024–3026——The remission should be limited to one-sixth, and in some cases to one-twelfth of the sentence. *Shepherd* 3115, 3116.

Expediency in certain exceptional cases of the exercise of a discretionary power of an unusually large remission, *Sir Wm. Erle* 3317. 3342——Objection to any reference in the sentence, as passed by the judge, to the question of remission. *ib.* 3340–3342. 3348–3350——Decided approval of a system of minima of time and of remission of sentence, *Maconochi* 3683 *et seq.*——Total inadequacy of the means now adopted for judging of good conduct or reformation as affecting remissions, *ib.* 3684–3687. 3697. 3715, 3716, 3724. 3784——Approval of a system of remission carefully exercised, *Lord Campbell* 4015, 4016.

Views of a discharged criminal as to the desirableness of remissions, *App.* (*Second Rep.*) *p.* 204.

Resolutions of the Committee in favour of the principle and practice of remission of sentence, *Third Rep. p.* iii.

*See* also *Commutation of Sentence. Mark or Task System. Penal Servitude. Tickets of Leave, or Licences to be at Large. Uncertainty of Punishment.*

*Reparation.* Inexpediency and impracticability of punishment by way of reparation in case of felony or theft, *Maconochie* 3733–3742——In Prussia some lighter offences are punished by fines, *De Katte* 3891.

*Restrictions on Release.* Much worse position of a licensed convict than of one who has fulfilled his entire term of penal servitude, *Waddington* 217——In some cases, recently, notoriously bad characters have been restricted, by their licence, from going to certain localities, *ib.* 218–220——Evasion at present of the Act if licensed boys leave the United Kingdom and Channel Islands, *O'Brien* 657——Discharged convicts are sometimes interdicted

*Restrictions on Release*—continued.

interdicted from returning to certain counties under penalty of forfeiture of licence, *Whitty* 1019–1022——Respect in which not safe for the licensed convicts to go to the colonies, in breach of the conditions of discharge, *Jebb* 1104. 1260.

*See* also *Liberty. Police Surveillance. Ticket of Leave.*

*Return of Transported Convicts.* Expediency of bringing transported convicts to England, if on the expiration of their sentence their labour cannot be absorbed in the colony, *Jebb* 1183–1186——Objection to the custom not to assist transported convicts to return to this country on the expiration of their sentence, *ib.* 1281–1284.

Small portion of transported convicts who return to this country; the majority settle and prosper in the colonies, *Jebb* 1281. 1285–1287; *Lord Grey* 1769——Few instances of return convicts to Scotland during the operation of transportation, *Sir A. Alison* 1977; *M'Levy* 2314–2318——Very rare instances of Irish transports returning to this country, *Sir M. Barrington* 2352. 2389.

*Revocations of Licences:*

1. *Number, comparatively, of Revocations and of Licences.*
2. *Power and Practice in regard to Revocations.*

1. *Number, comparatively, of Revocations and of Licences:*

Total up to 11 March last, of 179 revoked licenses out of 5,152, *Waddington* 30, 31. 45–47; and *App.* (*First Rep.*) *p.* 179, 180; *Jebb.* 1054——Statement as to a total of 181 licences revoked up to 31 March last; explanation hereon, *O'Brien* 543–550——Comparison of the discharges with tickets of leave on certain periods in 1854-55, with the revocations in corresponding periods in 1855-56, *ib.* 550——Difficulty in showing any exact per-centage of revocations, *ib.*——Out of 299 licensed prisoners from Parkhurst, only nine licences have been revoked, *ib.* 653-655——Out of 239 female licences granted from Brixton Prison, only seven have hitherto been revoked, *ib.* 736.

Tabular statement and explanation thereon, as to the per-centage of revocations in the case of licensed public works prisoners, *Whitty* 897–900——Increase of three-tenths per cent. in the revocations of licences from public works prisoners in each quarter since the passing of the Act; the total per-centage being $3\frac{4}{10}$ per cent. of those licensed, *ib.* 898, 899——Fewer revocations in the case of men well-conducted when in prison than in the case of the misconducted class, *ib.* 899, 900——Largely increasing number of revocations or reconvictions, *Sir R. Mayne* 3365–3372.

2. *Power and Practice in regard to Revocations:*

Summary power of revoking the licence adverted to as an inducement to good conduct, *Waddington* 20. 52–55. 206. 237. 247——Instances of revocation of licence merely under suspicious circumstances, and without reconviction, *ib.* 52–55. 236, 237——Doubt as to any revocation of licence on the ground merely of suspicious circumstances, *Jebb* 1410, 1411.

Expediency of amended regulations, so as to give the discharged convict an opportunity of showing cause why his licence should not be revoked, *Hill* 1832–1836. 1854–1858——Public advantage of the investigation relative to revocation of licence, were conducted by a magistrate instead of by the authorities of the Home Department, *ib.* 1832, 1833. 1844. 1853——Very rare instances in which at present the revocation of the licence is anything more than a form, *ib.* 1834, 1835. 1845——Practice suggested in carrying out the inquiry into revocation of licence, &c. *ib.* 1846–1858.

Additional punishment in Scotland if a man were convicted who had been liberated under ticket of leave, *Sir A. Alison* 1978–1982——Witness is not aware of any revocation of licence, save on reconviction, *Loome* 2701. 2729——When the licence is revoked the offender should be sent again to solitary confinement, *Shepherd* 3147——Cases of reconviction, in which the licence is not revoked, *Sir R. Mayne* 3372.

*See* also *Enforcement of Conditions of Release.*

*Russia.* Summary of an elaborate official report as to the criminal code, and the system of transportation and penal discipline, *App.* (*Third Rep.*) *p.* 73, 74.

S.

*Savings of Licensed Convicts.* Practice to have periodical meetings in Dublin of the licensed convicts, who on such occasions leave money for investment in the savings bank, *Crofton* 1502–1504.

*Saxony.* Law and practice in Saxony in regard to discharged prisoners, *App.* (*Third Rep.*) *p.* 61.

*Scotland.* In consequence of the peculiar gradation of punishments in Scotland, witness has from the first had great apprehensions that the system of imprisonment and penal

Reports, 1856—*continued.*

*Scotland*—continued.

servitude in lieu of transportation would be very pernicious, *Sir A. Alison* 1956, 1957. 2023——Statement as to the very numerous instances of criminals sentenced in Scotland to transportation or penal servitude, who within a year or two of the sentence are again found at large, and reconvicted, *ib.* 1957 *et seq.*; 2072——These liberations take place from the English prisons, there being but few escapes among the number, *ib.* 1961–1964. 1966.

Conclusion that the ticket-of-leave system has had the worst possible effect in Scotland, and has sent back the worst and most dangerous class of convicts as a prey upon society, *Sir A. Alison* 1958 *et seq.*——Assumption that nineteen-twentieths of the persons indicted at the Scotch circuits have been liberated from sentences of transportation or penal servitude, *ib.* 1965. 1967–1975.

The sheriff of the county should receive intimation from the Secretary of State of the return of each convict discharged under ticket of leave, *Smart* 2102. 2133–2141. 2167–2172. 2199——Frequent instances of reconvictions of ticket-of-leave men at the several circuits attended by witness since the Act of 1853; details hereon, *Hart* 2221–2267. 2270–2274.

Number of ticket-of-leave men released in Scotland; proportion of 1·8 to 10,000 of population, *App.* (*Second Rep.*) *p.* 196.

*See* also *Edinburgh. Glasgow. Police Surveillance*, 4. *Tickets of Leave, or Licences to be at Large.*

*Select Committees, Reports of.* Strong opposition first made to the system of transportation, in consequence of the adverse report of the Select Committee of the House of Commons in 1838, *Waddington* 5——Strong condemnation of the system of transportation by the report of Sir W. Molesworth's Committee, *Elliot* 272, 273——Active steps taken by the Home Government, in accordance with the recommendation of the Report, *ib.* 275–283.

Reference to the Report of the Committee of the House of Lords in 1847, as strongly recommending a re-adoption of transportation, *Elliot* 289–291.

Resolutions of the Select Committee of the House of Commons of 1850, with a view to reducing the number of transported convicts, and increasing the number to be imprisoned and discharged in this country, *Jebb* 1044——Adoption practically of these resolutions in the Act 16 and 17 Vict. c. 99, *ib.*

*Self-supporting Prisons.* Regret that trial has not been made of Mr. Pearson's proposition for making prisons self-supporting, *Hill* 1877.

*Separate System.* System of solitary confinement for nine months, as the first part of a sentence of transportation or penal servitude, *Waddington* 111. 208. 233——Commencement in 1848 of the system of solitary confinement and employment on public works previous to actual transportation, *ib.* 191.

There were 1,716 male convicts in separate confinement in Millbank, Pentonville, Wakefield, and Leicester prisons on 11th March 1856, *O Brien* 532. 534——The prisons for separate confinement, which varies from nine to twelve months, are Millbank, Pentonville, Wakefield, and Leicester; size of each of them; *ib.* 534–538——A probationary period of four months in separate confinement does not affect the health of females, *ib.* 853.

Reference to the notice to convicts previously to the Act of 1853, as showing the regulations then in force in regard to convicts in separate confinement, *Jebb* 1045–1047——Effect of the previous discipline in solitary confinement at Portland in leading to good conduct on public works, *ib.* 1199–1201——Belief that on the whole a very fair opinion is formed of the conduct of each man in separate confinement, *ib.* 1241–1245——Great value of separate confinement as the commencement of imprisonment, *ib.* 1366. 1413, 1414.

Abandonment in Prussia of the solitary system as having driven the men mad, *De Katte* 3860–3864.

Testimony by a discharged criminal to the advantage of non-association in prison, *App.* (*Second Rep.*) *p.* 204.

*See Millbank Prison. Transportation*, 5. 6.

*Seven Years' Sentences.* See *Commutation of Sentence. Transportation*, 8.

*Shepherd, Edward.* (Analysis of his Evidence.)—Has been governor of the house of correction at Wakefield, for the West Riding, for twenty-four years; was previously deputy governor for six years, 3046–3048——Considerable use made by Government since 1847 of Wakefield Prison for the treatment of convicts under sentence of transportation or of penal servitude, 3049–3052——Average of about 600 prisoners, including West Riding offenders, 3053, 3054.

Sundry

Reports, 1856—*continued.*

*Shepherd, Edward.* (Analysis of his Evidence)—*continued.*

Sundry grounds for the conclusion that the Act 16 & 17 Vict. has operated exceedingly unfavourably, 3055 *et seq.*——Reference to, and analysis of the Return from the Home Office as to the reconviction of 447 out of 5,152 licensed prisoners; deduction unfavourable to the ticket-of-leave system, 3057. 3139——Bad working of the system also inferred from the vicious character of the offences of licensed convicts; returns hereon as afforded by Wakefield prison, 3057. 3139-3141.

Gradual and considerable increase in the readmissions of ticket-of-leave men to Wakefield prison, 3057-3061. 3080, 3081——Opportunities and practice of witness for ascertaining whether a prisoner has had a ticket-of-leave; belief that he is not often deceived; 3062-3079——Cases of revoked licence adverted to, 3082, 3083——Illustration of the feeling among penal servitude prisoners that their term of imprisonment would be much shorter than the sentence, 3084-3086.

Proof of the preference of the majority of penal servitude prisoners for sentences of penal servitude as compared with transportation, 3087-3096——Differently deterrent effect of transportation upon the minds of different classes of criminals; it has been more dreaded generally since the Act of 1853; 3087-3092. 3173-3182——Importance of retaining transportation, and of extending it if possible, 3096, 3097——Suggestions for rendering prison discipline more deterrent and a better substitute for transportation, 3098-3109. 3143, 3144. 3183-3192——Proposition embraced in witness's scheme for taking men from employment on public works and giving them a very considerable amount of liberty, in connexion with Government employment, before their discharge, 3099-3104. 3171. 3183-3192. 3215-3218.

Importance generally of a modification or remission of sentence as an inducement to reformation, though, in principle, fixed sentences are very desirable, 3112, 3113. 3136-3138——Suggestions for passing longer sentences, in connexion with a system of unconditional release before the expiration of the term, 3114-3122. 3132-3135——Four years should be the shortest period of detention, 3114——The remission should be limited to one-sixth, and in some cases to one-twelfth of the sentence, 3115, 3116——Objection to the ticket-of-leave system as inducing offenders to change their names, 3124-3132.

Improvement suggested in the present expensive system of recommittal of ticket-of-leave men, 3145-3147——When a licence is revoked the offender should be sent again to solitary confinement, 3147——Expediency of restraining penal servitude prisoners from communicating with their associates and friends outside the prison, 3148-3154——Approval of the tendency of late years to substitute reformatory for purely corrective punishment, 3155-3168——Less dread of late years of imprisonment and solitary confinement, 3157. 3162——Difficulty in carrying out a general system of penal reformatories for prisoners before discharge, 3169-3171.

Particulars relative to the House of Refuge at Wakefield for discharged females; favourable operation of the institution as an avenue to honest occupation, 3193-3208——Expediency when a ticket-of-leave man is sent to any place of notice being given to the local authorities, 3209-3211——Propriety of the police being made cognisant of discharges on licence, 3211——Improvement if instead of a certain sum being at once given to the ticket-of-leave man, the same amount were paid to him in weekly instalments by the local authorities, *ib.*——Average annual earnings of 5 *l.* by each prisoner in Wakefield prison, 3212-3214——Nature of the employment in the prison, 3219.

*Short Imprisonments.* Bar to reformation in the common prisons on account of the short sentences, *Jebb* 1417——Greater danger of a return to crime in the case of short-term prisoners when discharged than in the case of long-term prisoners, *ib.* 1418——Difficulty of applying tickets of leave to short sentences of penal servitude, *Lord Grey* 1708; *Hill* 1876.

Bar to reformation in any system of short imprisonments, *Hill* 1876. 1880-1888; *Sir C. Cresswell* 2972, 2973. 3004, 3005——Short imprisonments are a sort of education or training in crime, *Hill* 1876——Any system whereby after short periods of imprisonment offenders are returned to society is peculiarly unwise, *Sir R. Mayne* 3365. 3388-3394. 3398-3400. 3442-3444——Evil of short imprisonments in the earlier return to society, and the greater opportunity for crime, *ib.* 3389. 3394-3444.

*Silent System.* See *Separate System.*

*Smart, James.* (Analysis of his Evidence.)—Superintendent of police at Glasgow; has been in the establishment for many years, 2095, 2096——Unsuccessful and injurious result of the ticket-of-leave system in Glasgow, and generally, on account of the absence of intimation as to the return of the men, and the want of intercommunication among the police, so as to ensure a proper superintendence, 2097 *et seq.*——Actual want of police in many parts of Scotland as a means of counteracting the operations of dishonest ticket-of-leave men, 2100-2102. 2106, 2107. 2152-2154. 2198.

Frequent instances of ticket-of-leave men in Glasgow, who were previously strangers to the place; the great majority, however, were convicted there, 2103. 2173, 2174——Means of discovering ticket-of-leave men; difficulty on the subject, 2104. 2112-2116

Reports, 1856—*continued.*

*Smart, James.* (Analysis of his Evidence)—*continued.*

——Probable number of ticket-of-leave men in Glasgow; about a fourth of the entire number since 1853 have been reconvicted, 2105, 2106. 2156-2166. 2186——Practice of liberated convicts to destroy the ticket of leave, which they look upon as a disgrace and as injurious, 2112-2114. 2184, 2185——Case of a ticket-of-leave man named Muir, recently reconvicted at Glasgow, 2116-2122.

Nature of the police surveillance in Glasgow over ticket-of-leave men; discontinuance of any interference where the man is well conducted, 2124-2128. 2168-2172——Failure of the majority of the well-disposed men to obtain an honest living, their old associates frequently interfering with their re-employment, 2129-2132. 2176, 2177——Suggested form of instruction from the Secretary of State to the sheriff, and through him to the police, as to the release of ticket-of-leave men in any place, 2133-2141. 2167-2172. 2198, 2199——Advantage if, save in exceptional cases, the men were debarred from returning to the place of conviction, 2142-2145. 2167. 2179. 2189-2201.

Slight hope of reformation in the class of convicts transported from Glasgow, 2145——Short stay of the convict in Glasgow prison after a sentence of transportation, 2146, 2147——Concurrence in Sir A. Alison's opinion, that Scotch criminals are more deterred and reformed by transportation than by any other punishment, 2148-2150. 2202, 2203——Suggestion as to the employment of convicts on waste land in Scotland before transportation or emigration, 2151——Operation of the reformatory school in Glasgow adverted to, 2177.

Advantage if men liberated at Bermuda had been sent to one of the colonies, 2178-2200——The gratuity for industry should be given on discharge, and the man allowed to go wherever he liked, save to the place of his former crime, 2178-2181. 2187-2192——There should be permission to go to the colonies, 2194-2196——Apprehended increase of crime, directly and indirectly, under the present system of tickets of leave, 2204-2208.

*Smithfield Prison, Dublin.* The intermediate or industrial establishment at Smithfield was formed in January 1856, and accommodates from sixty to eighty convicts, *Crofton* 1489-1492——Copy of the rules which govern the establishment, *ib.* 1497, 1498——Details as to the several modes of employment of the convicts' time, *ib.* 1498, 1499——System of lectures pursued with considerable success, *ib.* 1499, 1500——Advantage, for the sake of reformation and prison discipline, in always keeping a nucleus of well-behaved men at Smithfield, *ib.* 1506.

*Sociétés de Patronage.* See *Patronage Societies.*

*Spiritual Superintendence of Transports.* Importance of an organisation for the proper spiritual superintendence of the convicts in the colonies, *Walpole* 2435, 2436. 2439. 2545.

*Staffordshire.* Comparatively large number of criminals in Staffordshire, *Jebb* 1412.

*"Stirling Castle" Hulk.* Evidence showing that, as regards prisoners liberated on tickets of leave from the "Stirling Castle," the result has been very favourable, *Walpole* 2452-2464; *Thwaites* 2763-2792. 2803-2806. 2920-2926——Out of 314 released since the passing of the Act only twelve have had their licences revoked; some others were re-tried and imprisoned, *Thwaites* 2772-2787——Reference to one case of revocation, in which the man was charged with burglary; proof of the offence was ultimately obtained, *ib.* 2775. 2923-2926——In the year 1855, 129 were liberated, the great majority of whom are known to be doing well and honestly, *ib.* 2788-2792. 2803-2806——As an effect peculiar to the hulk system, discipline cannot be properly attended to, and the conduct of the men is deplorably bad, *ib.* 2865-2872.

*Surveillance* (*Licensed Convicts*). Advantage if, in each case, there were some person through whom inquiries might be made of the ticket-of-leave men by the chaplain, *Walpole* 2465, 2466.——*See* also *Police Surveillance.*

*Sweden.* Official report on the criminal code and system of penal discipline; together with the opinion of the Government as to punishment by transportation, *App.* (*Third Rep*) *p.* 70, 71——Public opinion has always been against transportation, *ib.* 71.

T.

*Task System.* See *Mark or Task System.*

*Ten Years' Sentences.* See *Commutation of Sentence. Transportation,* 2.

*Term of Sentence.* See *Commutation of Sentence. Gradation of Punishment. Life Sentences. Penal Servitude,* 5. *Remission of Sentence.*

*Test of Reformation.* See *Chaplains. Mark or Task System. Remission of Sentence.*

Reports, 1856—*continued.*

*Thwaites, William.* (Analysis of his Evidence.)—Teacher of convicts for the last eight years; is now schoolmaster on board the "Stirling Castle" hulk at Gosport, 2758–2760——Adduces evidence showing that, as regards prisoners liberated on tickets of leave from the "Stirling Castle," the result has been very favourable, 2763–2792. 2803–2806. 2923–2926——Course adopted in order to procure employment for the men on discharge; system of correspondence hereon with some party named by the convict, 2765–2767. 2793–2802. 2882–2885. 2897–2900. 2905. 2953–2955——Some men are liberated upon their own showing that they have prospect of employment, 2798–2802.

Suggestion that those men who are known to have been thieves all their lives, such as confirmed London pickpockets, should, as having a great horror of transportation, be transported, 2807–2816. 2946–2952. 2956, 2957——Thieves in London and other large towns rarely reform when released from prison, 2810, 2811. 2957–2959——Recommended continuance of the ticket-of-leave system as regards criminals from rural districts, 2816–2818.

Undue interference on the part of the police, so that ticket-of-leave men occasionally lose honest employment thereby, 2819–2825. 2927–2929——The police should exercise a surveillance, without any interference with well-conducted men, 2826–2829. 2932–2937——Importance of the controlling effect of a ticket of leave, and of the conditions endorsed on it, 2829–2832. 2921, 2922. 2927–2937.

Decided improvement if sentences of penal servitude were liable to remission as an inducement to good conduct, 2833–2848. 2941, 2942. 2956–2961——Evil effect of penal servitude sentences, as shown by the bad conduct of men in the "Stirling Castle," 2835–2839. 2914–2920. 2941——Fallacy in looking on good behaviour in prison as a test of reformation, 2842. 2875. 2911——Evidence in favour of houses of refuge as a means of caring for discharged prisoners, and procuring them employment, 2849–2859. 2882–2910.

Illustrations of the hardships borne by ticket-of-leave men through want of employment, 2850, 2851. 2854–2859. 2902, 2903——Explanation that the granting of a ticket of leave is not at all affected by the chaplain's opinion of the convict, 2860–2864——Great importance of abandoning the hulk system, which is most mischievous and demoralizing, 2865–2880. 2938–2945——Institutions for furthering employment should be managed by private individuals, 2887–2889——Employment in trades and in agricultural labour should be given in these institutions, 2891. 2896——They should be situated in the country, 2893.

Industry should be considered as one of the chief tests whereby sentences should be remitted, 2901. 2912, 2913——Suggested impetus to emigration through means of the houses of refuge, 2902–2904——System of giving Post-office orders to ticket-of-leave men payable at their destination, adverted to as being easily evaded, 2906, 2907——Doubt as to many persons being found to give guarantees of good conduct of released convicts, according to the plan of Mr. Wright, of Manchester, 2908–2910.

Much worse discipline in hulks than in prisons on land, 2944, 2945——Anxiety of convicts who wish to reform to be sent out of the country, 2946–2948——In seeking for employment ticket-of-leave men are very unwilling to apply for it in the place of their conviction, 2955——Further statement as to the propriety of more stringent discipline and regulations in the case of confirmed criminals than of those willing to reform, 2956–2961.

*Tickets of Leave, or Licences to be at Large:*

1. *Origin of the System of conditional Discharge in this Country.*
2. *Form of Licence, as distinguished from a Ticket of Leave.*
3. *Restriction hitherto of the Licence to Sentences of Transportation.*
4. *Form of Proceeding in granting the Licence.*
5. *Colonial Regulations considered in regard to Tickets of Leave.*
6. *Approval of the Principle of Conditional Discharge in this Country.*
7. *Number of Licences issued:*
8. *Evidence in proof of the favourable working of the System; few Relapses into Crime:*
9. *Argument that the System has worked very unfavourably.*
10. *Undue amount of Benefit attributed to the System.*
11. *Evidence on the Question of Ticket-of-Leave Men instigating others to Crime.*
12. *Insufficient Data as yet for calculating the Effect of the System.*

1. *Origin of the System of conditional Discharge in this Country:*

The ticket-of-leave system originated in the large accumulation of convicts not transported, *Waddington* 17. 20——It was partly owing to witness's suggestion that licences at home were adopted, *Lord Grey* 1707——It transpired that Government had the suggestion in contemplation before it was mentioned by Earl Grey, *Hill* 1819.

Reports, 1856—*continued.*

*TICKETS OF LEAVE, OR LICENCES TO BE AT LARGE*—continued.

2. *Form of Licence, as distinguished from a Ticket of Leave:*

Distinction between a "ticket of leave" to a transported convict and a "licence to be at large" in this country under the Act of 1853, *Waddington* 209-220——Form of the licence now issued, *O'Brien's Ev.* (*First Rep.*) *p.* 62.

3. *Restriction hitherto of the Licence to Sentences of Transportation:*

All persons hitherto discharged on licences were under sentences of transportation in 1853, *O'Brien* 710-712——According to the present regulations, tickets of leave are not to be granted to any sentenced to transportation subsequently to 1853, or to any under sentence of penal servitude, *ib.* 713-717.

4. *Form of Proceeding in granting the Licence:*

Explanation as to the practice adopted with regard to the actual granting of the licence when the time has come, *Whitty* 879-894——Communication sent from the convict prisons to the head office in Parliament-street, and thence to the Home Department, where the licences are issued, *ib.* 879-883——The original document is kept in Parliament-street, and a copy, certified by Colonel Jebb, is sent to the prison for the convict, *ib.* 883-887——The conv ct is sent either to his home or to the place of conviction, a part of his earnings in prison being paid by Post-office order at the place of destination, *ib.* 888-894.

5. *Colonial Regulations considered in regard to Tickets of Leave:*

Practice in the colonies to grant conditional pardons, after different periods, to well-conducted ticket-of-leave men, *Waddington* 212——Regulation in regard to the general system of tickets of leave in the penal colony, *Jebb* 1047——Better position, in some respects, of a convict in the colonies than of a free emigrant, *ib.* 1273——Tickets of leave have been in use in the colonies for many years, *Lord Grey* 1680——Approval, generally, of a return to the former colonial regulations with respect to ticket-of-leave holders, *ib.* 1744——At first it might be desirable to send the convicts from the depôt to those settlers only who apply for them, *ib.* 1745.

Expediency of employing the transports before liberation, under tickets of leave, on public works in the colony rather than on public works at home, *Sir A. Alison* 2052. 2060. 2063——After employment in gangs on colonial public works, the convicts might, if well conducted, either be discharged under licence, on the assignment system, or absolutely discharged, *ib.* 2057-2059——Necessity, in the first instance, if transportation be continued, of employing the convicts in the colonies on public works, *Walpole* 2523-2525.

6. *Approval of the Principle of Conditional Discharge in this Country:*

The efficiency of the system of tickets of leave depends upon there being a considerable portion of the sentence unexpired when the convict is released, *Lord Grey* 1707, 1708. 1711, 1712——Transportation being impracticable, licences at home, in lieu of absolute discharge, cannot act injuriously, *Hill* 1787-1789——Approval of the principle that the liberty of the convict, discharged before his term, is conditional on good behaviour, *ib.* 1818——Witness lays before the Committee (App., Second Rep., p. 186-190) the charge delivered by him at the October sessions of 1855 to the grand jury of Birmingham, upon the subject of tickets of leave, *ib.* 1941——If transportation is impossible, imprisonment and tickets of leave are the best alternatives, *Sir A. Alison* 1989. 2046. 2075-2078.

Recommended continuance of the ticket-of-leave system as regards criminals from rural districts, *Thwaites* 2616-2818——Importance of the controlling effect of a ticket of leave and of the conditions endorsed on it, *Thwaites* 2829-2832. 2921, 2922. 2927-2937; *Sir W. Erle* 3336. 3352——Approval of a properly conducted system of release with a ticket of leave, *Sir R. Mayne* 3388——Advantages generally of tickets of leave over a system of unconditional pardon or remission, *Mayhew* 3494-3496. 3504. 3512. 3561-3563; *Lord Campbell* 3979, 3980——Feeling of licensed prisoners generally that the ticket of leave is a boon to them, and is better than unconditional release, *Mayhew* 3497, 3498. 3564-3567. 3613, 3614.

Resolution, that that system appears to be founded upon a principle wise and just in itself, viz. that of enabling a convict to obtain, by continued good conduct while undergoing his punishment, the remission of a portion of his sentence, upon the express condition, however, that in case of subsequent misconduct his liability to punishment for the term specified in the original sentence, *Third Rep. p.* iv.

7. *Number of Licences issued:*

Out of the number under sentences of transportation on 30 September 1853, 4,873 males and 279 females had been discharged under licences up to 11 March last, *Waddington* 29, 30, and *App.* (*First Rep.*) *p.* 179, 180; *Jebb* 1052-1054——Up to 20 February 1855, 2,647 convicts were discharged on licence, *Waddington* 33-35——From 20 February 1855 to 11 March 1856, 2,505 convicts were so discharged, *ib.* 40.

Statement

Reports, 1856—*continued.*

*Tickets of Leave, or Licences to be at Large—continued.*

7. *Number of Licences issued*—continued.

Statement showing a total of 5,328 licences issued up to 31 March last, *O'Brien* 539–542——Particulars as to the number released on licence in each of the English counties, and in Wales, together with the proportions which they bear to the population of each county, *Jebb* 1058–1064, and *App.* (*Second Rep.*) *p.* 196——Proportion in England and Wales, of 2·3 to10,000 of population, *App.* (*Second Rep.*) *p.* 196.

8. *Evidence in proof of the favourable working of the System; few Relapses into Crime:*

Examination tending to show that the effect of the ticket-of-leave system has been at least as good as could in reason have been anticipated; details hereon, *Waddington* 33 *et seq.*, 159, 160——Of 2,647 licences up to 20 February 1855, there have been thirty-one licences revoked, and, including those thirty-one, fifty-six cases of reported misconduct, *ib.* 35–39——Besides those in England and Wales whose licences have been revoked, a large number have been recommitted for additional punishment, *Waddington* 35–51, and *App.* (*First Rep.*) *p.* 180.

Of 447 reported for misconduct up to 11 March last, 179 had their licences revoked, twenty-five were acquitted on trial, and the remainder were recommitted and sentenced for a new term, *Waddington* 44–62, and *App.* (*First Rep.*) *p.* 180——From 20 February 1855 to 11 March 1856, 391 had been reported for misconduct, of whom twenty-one were acquitted, 148 had their licences revoked, and the remainder were re-sentenced, *Waddington* 40–44. 49–51——About eight per cent. of those discharged have been proved to have fallen back into crime, *ib.* 60–62——A relapse into crime of twelve, or even fifteen per cent. would be small, considering the nature of the offenders, *ib.* 159.

Altogether, it has been ascertained that about twelve per cent of those discharged on licences have again fallen into crime *O'Brien* 550——Assumption that eight per cent. is a liberal estimate for the undiscovered culprits, and that eighty per cent. of those discharged lead a reformed life, *ib.* 550–555. 684, 685. 708, 709——Tabular statement showing a regular per-centage increase of revocations or relapses into crime, *Whitty* 897——About eight per cent of those released have again fallen into crime in a period of two years and five months, *Jebb* 1054—— Grounds for the inference that previously to the information consequent on the circular of February 1855 the ticket-of-leave convicts were on the whole as well conducted as since that period, *ib.* 1055, 1056.

The system of licensing has been most satisfactory, far more so than witness had anticipated, *Jebb* 1057. 1064. 1066. 1069. 1077–1080. 1249. 1254——Analysis of the offences in the case of those reconvicted, *ib.* 1057——Proper feeling displayed by ticket-of-leave men in subsequent communications with chaplains, &c., *ib.* 1066——Adequacy of the data for the conclusion that the system of licences has worked wisely and well, *ib.* 1080. 1401–1404——Very satisfactory character of the correspondence frequently carried on between the ticket-of-leave men and the chaplains, *ib.* 1205, 1206.

Discharge in Ireland of twenty-three men from Smithfield and Fort Camden who have been under licence for more than six weeks, as regards twenty-one of whom the information is most satisfactory, *Crofton* 1499, 1500. 1502——On the whole, the system has worked at least as well as could have been expected, *Hill* 1784–1787. 1817; *Walpole* 2455——Absence of increase of crime through the ticket-of-leave system; belief that on the whole the system has operated favourably, *Sir William Erle* 3309. 3325; *Mayhew* 3474–3477. 3493——Personal communication of witness with ticket-of-leave men, for many of whom he has provided employment, and for whose honesty he can vouch, *Mayhew* 3492. 3504–3507. 3615.

Resolution of the Committee that there has been much misapprehension and exaggeration with regard to the conduct of persons released upon tickets of leave, who have been frequently confounded, under one common designation of "ticket-of-leave men," with convicts whose sentences had absolutely expired, *Third Report, p.* iv——There is reason to believe that the conduct of a large proportion of the men has been good, *ib.*

9. *Argument that the System has worked very unfavourably:*

Ticket-of-leave men are connected, directly or indirectly, in the very worst class of crimes, *Sir A. Alison* 1958, 1959. 2038, 2039——Much larger proportion of ticket-of-leave men who commit crime than are identified to have done so, *ib.* 1959——Out of fifty cases at the last circuit attended by witness, in Scotland, ten convictions were of ticket-of-leave men; nature of the offences, *Hart* 2229–2243. 2270–2272.

Belief that recently the ticket-of-leave system has not worked well, and that reconvictions are on the increase, *Walpole* 2449–2452——Probability of the system getting worse when once it gets bad, *ib.* 2452——Serious offences sometimes committed by ticket-of-leave men or returned transports, *Loome* 2618. 2690–2693——They may sometimes commit twenty offences before they are detected, *ib.* 2618. 2699——Failure of the Act of

Reports, 1856—*continued.*

*Tickets of Leave, or Licences to be at Large*—continued.

9. *Argument that the System has worked very unfavourably*—continued.

1853, on account of the large relapse into crime consequent thereon, *Loome* 2729–2734. 2754, 2755.

Opinion that the Act must work unfavourably, when combined with the present ticket-of-leave system, *Sir C. Cresswell* 2972–2974. 2979. 2998. 3028——Instance of a serious case of reconviction before witness, in which it was known that the offender was a ticket-of-leave man, *ib.* 3022, 3023. 3044, 3045.

Sundry grounds for the conclusion that the Act of 16 & 17 Vict. has operated exceedingly unfavourably, *Shepherd* 3055 *et seq.*——Reference to and analysis of the return from the Home Office as to the reconviction of 447 out of 5,152 licensed prisoners; deduction unfavourable to the ticket-of-leave system, *ib.* 3057. 3139——Bad working of the system inferred from the vicious character of the offences of the licensed convicts; returns hereon as afforded by Wakefield prison, *ib.* 3057. 3139–3141.

Data for the conclusion that the ticket-of-leave system is operating exceedingly unfavourably, *Sir R. Mayne* 3364 *et seq.*——Opinion freely expressed by the superintendents of Metropolitan Police as to the evil practices of a large number of the ticket-of-leave men, *Sir R. Mayne* 3372. 3382, and *App.* (*Second Rep.*) *p.* 197–202——Belief that tickets of leave are operating very unfavourably, inasmuch as a totally wrong system is adopted before release, *Maconochie* 3707–3709. 3713, 3714. 3780–3794.

10. *Undue amount of Benefit attributed to the System:*

The gradual increase of reconvictions, as shown by Capt. Whitty (Q. 897), is a strong argument that the relapses into crime are or will be more numerous than is calculated by Colonel Jebb and others, *Lord Grey* 1709; *Hill* 1811. 1816——The advantages of the Act have been unduly magnified, inasmuch as most probably great numbers are reconvicted without identification, *Hill* 1787. 1790–1810——The good working of the Act is further unduly magnified in the assumption that those not reconvicted, or the great majority of them, are doing well, *ib.* 1811. 1816——Many ticket-of-leave men will yet be reconvicted who are now enjoying that season of immunity which all criminals do enjoy, *ib.* 1811.

Remarks by Mr. Hill, in his charge to the grand jury of Birmingham, in October 1855, as to the probable fallacy of the estimate that ninety per cent. are reformed, *App.* (*Second Rep.*) *p.* 189.

11. *Evidence on the Question of Ticket-of-Leave Men instigating others to Crime:*

Witness has no reason to believe that ticket-of-leave men train or tempt boys to crime, *O'Brien* 699——If not engaged themselves in the commission of crime, ticket-of-leave men in Scotland lead others into crime, *Sir A. Alison* 1958; *Smart* 2206——Belief as to the frequent instigation to crime by ticket-of-leave men, *Hart* 2269; *Sir R. Mayne* 3372. 3389——Numerous cases of ticket-of-leave men in London training up boys and girls as pickpockets; remarkable illustration of this, *Loome* 2600–2603. 2672–2677. 2684–2686.

12. *Insufficient Data as yet for calculating the effect of the System:*

Circular first sent from the Home Office in February 1855, in order to obtain reports as to those who had misconducted themselves, *Waddington* 33. 59; *Jebb* 1054–1057——Further experience required in regard to the operation of tickets of leave in this country, though hitherto the result is very encouraging, *Lord Grey* 1708–1710——Insufficient opportunities hitherto of judging of the actual result of the Act 16 & 17 Vict., *Sir C. Cresswell* 2998. 3028. 3044, 3045——Novelty of the ticket-of-leave system in Ireland adverted to, as showing that its effect cannot yet be properly known, *Right Hon. N. Ball* 3637. 36423648.

Resolution that the system of licences to be at large, or tickets of leave authorised by section 9 of the Act, has been too short a time in operation in this country to form a clear and decided opinion either as to the effects which it has already produced, or as to its probable ultimate working, *Third Rep. p.* iii.

*See* also *Absolute Discharge. Assignment System (Colonies). Association of Convicts. Birmingham. Bristol. Burglary. Chaplains. Clerkenwell. Commutation of Sentence. Crime. Edinburgh. Employment. Enforcement of Conditions of Release. Glasgow. Identification of Ticket-of-Leave Men. Ireland. Juvenile Offenders, 3. Liberty. London. Parkhurst Prison. Penal Servitude. Police Surveillance. Public Opinion. Recommittals. Restrictions on Release. Revocations of Licences. Scotland. "Stirling Castle" Hulk. Uncertainty of Punishment. Vagabondage. Westminster.*

Reports, 1856—*continued.*

*TRANSPORTATION :*

1. *As to the Advantages generally of Transportation, and the Expediency of its continuance.*
2. *Recommended return to Sentences for Ten Years.*
3. *Proposition relative to Sentences for Fifteen Years and upwards.*
4. *Suggested Abolition, nominally, of all Sentences of Transportation.*
5. *Regulations, as laid down by Earl Grey, for carrying out the Sentence.*
6. *Approval of the foregoing Regulations, the penal part of the Sentence being passed in this Country.*
7. *Number of Sentences of late Years ; Proportion carried out.*
8. *Practice formerly in carrying out Sentences for Seven Years.*

1. *As to the Advantages generally of Transportation, and the Expediency of its continuance :*

So long as there were suitable colonies for penal settlements, transportation was the best secondary punishment that could have been adopted, *Elliot* 404. 420——As other nations have disposed of their convicts without transportation, so witness trusts that this country will ere long find proper means for dealing with its convicts at home, *ib.* 419, 420——Advantage and convenience of the system of transportation so long as there were means in the colonies of absorbing the labour of the convicts, *Jebb* 1219. 1345——Impolicy of this country depending on its colonies as a means of dealing with its convicts, *ib.* 1373. 1445.

Suggestion that transportation being regarded by convicts as a boon, the best conducted men should be rewarded by being selected for Western Australia, *Crofton* 1548–1556——As a relaxation of sentence, there should be power to send any convict to some colony with a ticket of leave, *Lord Grey* 1690, 1691. 1727, 1728. 1753——Value of transportation on account of its reformatory effect, *Lord Grey* 1691 ; *Sir A. Alison* 1986–1988. 2013–2015 ; *Walpole* 2544, 2545 ; *Sir C. Cresswell* 2975. 2981. 2987 ; *Sir W. Erle* 3303. 3307 ; *Right Hon. N. Ball* 3621. 3624 ; *Lord Campbell* 3962——Every effort should be made to extend the means of transportation, *Lord Grey* 1769.

Evidence strongly in favour of the old system of transportation as a means of deterring and reforming offenders, more especially in Scotland, *Sir A. Alison* 1985–1988. 2008, 2009. 2013–2016. 2018–2022. 2092——Penal servitude should be abolished and transportation retained, *ib.* 2006——The younger a criminal is transported the better the chance of reformation and the greater the saving to the country, *ib.* 2007, 2008——Value of transportation on the score of its peculiarly deterrent effect, *Sir A. Alison* 2018–2021 ; *M'Levy* 2303–2306 ; *Sir M. Barrington* 2329 *et seq.* ; *Loome* 2576 *et seq.* ; *Sir C. Cresswell* 2962–2969. 2981–2985. 2995–2997 ; *Sir W. Erle* 3303–3306. 3329, 3330. 3343–3345 ; *Right Hon. N. Ball* 3621–3624. 3652–3657. 3661, 3662 ; *Lord Campbell* 3962–3964. 3985–3995. 4017–4019——Witness is not prepared to admit that the principle of transportation has failed ; he attributes its partial failure to the adoption of an improper system, *Sir A. Alison* 2048–2050. 2061–2065.

Concurrence in Sir A. Alison's opinion that Scotch criminals are more deterred and reformed by transportation than by any other punishment, *Smart* 2148–2150. 2202, 2203——Advantage as regards Irish criminals of the punishment of transportation, and of the power of the Executive to remove transports from the place of conviction immediately after the sentence is passed, *Sir M. Barrington* 2329 *et seq.*——For some classes of offenders transportation is very expedient, as being not only deterrent, but more reformatory than penal servitude and release in this country, *Walpole* 2487. 2526. 2539–2545——Suggestion that those men who are known to have been thieves all their lives, such as confirmed London pickpockets, should, as having a great horror of transportation, be transported, *Thwaites* 2807–2816. 2946–2952. 2956, 2957.

Importance not only of retaining transportation, but of extending it if possible, *Sir C. Cresswell* 2967. 2981 ; *Shepherd* 3096, 3097 ; *Sir W. Erle* 3307, 3308——Witness considers transportation a very valuable punishment, not only on account of its peculiarly deterrent effect, but because of the opportunities it affords for employment and reformation, *Sir R. Mayne* 3358–3363. 3390. 3405. 3447——Imprisonment and hard labour, closing with transportation, is the best system of punishment, *ib.* 3405——Necessity of transportation eventually if the present system of punishment be persisted in, *Maconochie* 3680. 3701, 3702. 3743——For sundry reasons witness considers transportation to be the best secondary punishment which has yet been invented, *Lord Campbell* 3962. 3973. 4025.

Testimony by a discharged criminal to the benefits accruing from transportation, *App. (Second Rep.) p.* 204.

Resolution that the punishment of transportation is more effectual and deterring, better adapted for the reformation of convicts, and more beneficial to this country, than any other secondary punishment for serious crimes which has yet been tried, *Third Rep. p.* iii——Recommendation that the sentence of transportation be continued, so far as Her Majesty's dominions may afford safe and proper facilities for that purpose, *Third*

Reports, 1856—*continued.*

*TRANSPORTATION—continued.*

1. *As to the Advantages generally of Transportation, &c.*—continued.

*Rep. p.* iii——Resolution that convict prisons beyond the seas ought to be regarded as places for carrying out the sentences of transportation, *ib.*

2. *Recommended return to Sentences for Ten Years:*

Suggestion that it may be desirable to return to sentences of transportation for ten years, in order to meet the demand for convict labour in Western Australia, *Waddington* 172. 249——If the full demand in Western Australia be supplied there should be sentences of transportation for ten years, *Elliot* 490-492.

Recommendation of the Committee that sentences of ten years' transportation be revived, if facilities for carrying them out can be obtained, *Third Rep. p.* iii.

3. *Proposition relative to Sentences for Fifteen Years and upwards:*

Suggestion that all sentences of transportation for fifteen years and upwards be carried out by so many years of penal servitude at home, reducible on good conduct, and so many years of transportation with a ticket of leave, *Jebb* 1221. 1292–1300. 1346-1353. 1371–1388—— Scale recommended in carrying out the foregoing proposition, *ib.* 1221, 1264. 1383-1388——A fifteen years' sentence might be worked out by five years' penal servitude, reducible to four years on good conduct, and ten years' transportation under licence, *ib.* 1222. 1297——Greater severity, probably, of the sentences of transportation, if carried out as proposed by witness, *ib.* 1295–1297. 1383, 1384——In recommending sentences conjointly of penal servitude and transportation, witness does so in reference to the Act of 1853, and on the supposition that colonies may be found to absorb the labour of the convicts, *ib.* 1371–1375——Power under the Act to carry out sentences of transportation by so many years' penal servitude and so many years' actual transportation, as recommended by witness, *ib.* 1467, 1468.

4. *Suggested Abolition, nominally, of all Sentences of Transportation:*

Concurrence in the proposition for the abandonment of sentences of "transportation," *Lord Grey* 1721; *Hill* 1829. 1905–1908; *Lord Campbell* 4010–4014——Inconvenience and fallacy in passing sentences which cannot be carried out, *Lord Grey* 1721; *Hill* 1829; *Lord Campbell* 4010-4014.

5. *Regulations, as laid down by Earl Grey, for carying out the Sentence:*

System, in accordance with the plan adopted in 1848, of solitary confinement and employment on public works before actual transportation, *Waddington* 111. 198–209. 231–233——Under the regulations of 1848 the really penal part of the sentence of transportation was passed in this country, the convict having been sent to the colony with a ticket of leave, *ib.* 191. 198–202. 209——Regulation, in case of long sentences of transportation now passed, that the convict shall pass a portion of the term in solitary confinement and on public works at home, and then, if able-bodied, be sent to Western Australia, *Whitty* 991–997. 1029–1034——The system adopted by Lord Grey was looked upon merely as compulsory emigration, or as a reward for good conduct during the first and severe part of the sentence at home, *Jebb* 1220——Amended system of transportation shortly after witness's accession to office; the penal part of the sentence was passed in this country, and the remainder under ticket of leave in the colonies, *Lord Grey* 1678, 1679. 1703–1705.

6. *Approval of the foregoing Regulations, the penal part of the Sentence being passed in this Country:*

Advantage of the system of preparing the transports for ticket of leave abroad by first subjecting them to penal servitude and discipline at home, *Waddington* 201–205—— Disapproval of transportation as a penal portion of the punishment, *Jebb* 1345. 1371–1373——Sundry objections to that portion of the sentence passed in the colonies being in any way penal, *Lord Grey* 1688–1690. 1696. 1727–1729. 1753.

Benefit to the colonies in the transportation, under licence, of men reformed during penal servitude at home, *Hill* 1829. 1905–1907——Concurrence in Lord Grey's opinion that the penal portion of sentences of transportation should be passed at home, and that transportation under tickets of leave should follow merely for the purpose of reformation, *ib.* 1896–1900. 1906——Advantage in the penal part of the sentence being passed in this country, *Sir C. Cresswell* 2987; *Lord Campbell* 3974–3976.

Medical controversy at present whether the penal labour at home incapacitates for subsequent labour in the colony, *Elliot* 4073–4077.

7. *Number of Sentences of late Years; Proportion carried out:*

Statement in detail showing that in the years 1848–52 the total sentences of transportation, exclusive of Ireland, were 16,229, and the total number actually transported, 10,963, *Waddington* 14, 15, and *App.* (*First Rep.*) *p.* 179——On the 30th September 1853 there were 9,370 males and 480 females under sentences of transportation in Great Britain.

Reports, 1856—*continued.*

*TRANSPORTATION*—continued.

7. *Number of Sentences of late Years; Proportion carried out*—continued.

Britain and Bermuda and Gibraltar, *Waddington* 19. 25-29, and *App.* (*First Rep.*) *p.* 179 ——There remain of those under sentence in 1853, 3,287 yet to be disposed of, *Waddington* 31, and *App.* (*First Rep.*) *p.* 179.

On the passing of the Act of 1853, there were about 6,700 men in Great Britain under sentences of transportation for seven and ten years, *Jebb* 1048, 1049——Review of Government measures since 1838, showing that the Act of 1853 has reduced the number annually sentenced to transportation from about 3,000 to 300, *ib.* 1221.

There were 1,864 sentences in 1853, 310 in 1854, and 300 in 1855, *App.* (*First Rep.*) *p.* 182.

8. *Practice formerly in carrying out Sentences for Seven Years:*

Custom formerly to transport a seven years' convict after two years' good conduct, and to release him altogether after three-and-a-half years' good conduct in the hulks, *Waddington* 207, 208; *Jebb* 1270–1275——Exceptions to the rule, previously to the discontinuance of transportation, of sending all men under seven years' sentence to the colonies, *Lord Grey* 1701, 1702——In some cases of seven years' sentences they have been entirely passed in Ireland, *Sir M. Barrington* 2344–2350. 2411–2415.

*See* also *Agrarian Offences, Ireland.* *Assignment System* (*Colonies*). *Colonists.* *Deterrent Punishment.* *Exiles.* *Female Convicts*, 4. *Gold Fields, Australia.* *Incorrigible Offenders.* *Ireland.* *Juvenile Offenders.* *New South Wales.* *Norfolk Island.* *North Penal Colonies.* *Penal Servitude*, 1. *Select Committees, Reports of.* *Tickets of Leave, &c.*, 3. 5. *Van Diemen's Land.* *Western Australia.*

*Tuscany.* Official report as to the criminal code and system of penal discipline; penal settlements are impracticable, *App.* (*Third Rep.*) *p.* 72, 73.

## U.

*Uncertainty of Punishment.* Misapprehension under which the recorder of Birmingham assumed that licences would be granted in cases of sentence of penal servitude, and passed sentences on that understanding, *Waddington* 241, 242——Subsequent mitigation of these sentences on application by the recorder to the Home Office, *ib.* 242——Uncertainty, till the issue of the official regulations and notice in November 1855, whether tickets of leave were to be extended to penal servitude sentences or not, *Jebb* 1324–1322 ——Doubt as to any inconvenience or undue uncertainty in regard to the ticket of leave being granted by the Crown, either in the colony or at home, *Lord Grey* 1723–1726. 1732. 1734–1736.

Suggestion that all regulations by the Home Office with regard to the mitigation of sentences and general prison treatment be duly communicated to judges, recorders, and magistrates, *Hill* 1863–1865. 1875——Explanation as to witness having for two years read the Act as though tickets of leave were to be granted in the case of penal servitude sentences; he cannot be accused of any mistake or misapprehension in the matter, as inferred by Mr. Waddington (Q. 241, 242), *ib.* 1865. 1871–1875. 1884, 1885——Particulars as to 159 sentences passed by witness having been subsequently mitigated to one-third of their length; correspondence between witness and the Home Office which led to such mitigation, *Hill* 1865-1871, and *App. Second Rep. p.* 175-181——The misapprehension consists in persons supposing that either the law of the Act, or the policy of the Act, looked to any distinction between sentences of penal servitude and transportation as regards tickets of leave, *Hill* 1873.

Evils of the uncertainty inherent in the present system of penal servitude or transportation, the convict not having the least idea how the sentence will be carried out, *Sir A. Alison* 2081–2085——Strong objection to the element of uncertainty introduced into sentences under the Act 16 & 17 Vict. c. 99, *Sir C. Cresswell* 2970–2972. 2977. 2995–3004. 3027–3029. 3038——Uncertainty in witness's mind, in passing sentences of penal servitude, as to the way in which such sentences will be carried out, *Sir C. Cresswell* 2972. 2977. 3000–3003. 3018–3020; *Lord Campbell* 3965–3970. 3277, 3978. 4006. 4022.

Illustration of the feeling among penal servitude prisoners that their term of imprisonment would be much shorter than the sentence, *Shepherd* 3084-3086——Witness, though not officially informed, has understood that sentences of penal servitude have been carried out without remission, *Sir William Erle* 3310-3313——Evil in the uncertainty in the mind of the prisoner as to the extent to which sentence may be remitted, *Right Hon. N. Ball* 3628–3630. 3635. 3637. 3664——Inexpediency of the uncertainty in the mind of the judge as to what the sentence amounts to, *ib.* 3628, 3629. 3637. 3659.

*Unconditional Discharge.* See *Absolute Discharge.*

Reports, 1856—*continued.*

V.

*Vagabondage.* Constant practice of those discharged on licences from Parkhurst to migrate or go upon the tramp, *O'Brien* 633, 634. 640——Letter from Mr. Hill to the Chairman of the Committee, dated 20th June 1856, with reference to the prison of Valencia, and in corroboration of a communication from Colonel Don Manuel Montesinos, late governor of the prison, *App.* (*Second Rep.*) *p.* 160–168——Questions submitted by Mr. Hill, and answers thereto, relative to the system of treatment and general operation of the prison, *ib.* 171–174.

*Value of Convict Labour.* Estimate of 175,000 *l.* as the annual earnings or value of the labour under the combined system of penal servitude and transportation as proposed by witness, *Jebb* 1138, 1139. 1214–1216——Taking a general average on 17,000 prisoners, witness estimates the value of the labour of each at 12 *l.*, *ib.* 1214–1216.

Further estimate showing that the number of public works prisoners, and the value of their labour, are both less than was before estimated by witness, *Jebb* 1223. 1228.

*Vancouver's Island.* The distance of the island from England is one of several objections to a penal settlement there, *Elliot* 416, 417.

*Van Diemen's Land.* Transmission of 17,000 convicts to Van Diemen's Land in the years 1840–45, *Waddington* 5. 16——Discontinuance of transportation to Van Diemen's Land by the end of 1852; strong opposition having been raised by the colonists, *ib.* 5–7. 11——Failure of the system of association as tried by Lord Derby, *ib.* 193.

Van Diemen's Land was founded subsequently to New South Wales as a penal settlement, *Elliot* 270, 271——Steps taken in 1842 by Lord Derby, as Colonial Secretary, for sending large numbers of convicts to Van Diemen's Land; failure of the plan, and great dissatisfaction among the colonists, *ib.* 282–284——Suspension by Mr. Gladstone in 1846–47 of transportation, *ib.* 285, 286——System subsequently adopted by Lord Grey and Sir George Grey, with comparative success, whereby convicts, after undergoing penal treatment at home, were sent in limited numbers to Van Diemen's Land, *ib.* 286–293.

Discontinuance eventually in 1852, by Lord Derby's Government, of transportation to Van Diemen's Land in consequence of the strong and increasing dissatisfaction of the colonists, *Elliot* 293–305. 389–391——Witness attributes the success of the colony to the value of the export of wool, and not to the convict system, *ib.* 404–407——Equally strong feeling in Van Diemen's Land as in Victoria against the reception of convicts, *ib.* 443——Reference to an official complaint from Van Diemen's Land as to the large number of paupers and criminals produced by the penal settlement, *ib.* 496.

Demoralization consequent on the undue accumulation of convicts, *Jebb* 1219, 1220——Transportation to Van Diemen's Land, in suspension in 1846, was resumed subsequently to that period, *Lord Grey* 1676, 1677. 1699, 1700——Serious evil to the colony, and just cause of complaint, through the manner in which transportation was carried on subsequently to the assignment system, *ib.* 1758, 1759——Change in the circumstances of the colony since its complaint against the assignment system, *ib.* 1773, 1774.

*Victoria.* Proof of the abhorrence entertained of convicts by the colony of Victoria, *Elliot* 442. 475.

W.

*Waddington, Horatio.* (Analysis of his Evidence.)—Is permanent Under Secretary of State for the Home Department, 1, 2——Partly superintended the preparation of the Act 16 & 17 Vict. c. 99; 3, 4. 18. 123–125——Strong opposition first made to the system of transportation, in consequence of the adverse Report of the Select Committee of the House of Commons in 1838; 5——Opposition on the part of New South Wales, so that at the end of 1850 transportation to that colony was discontinued, 5–11——Transmission of 17,000 convicts to Van Diemen's Land in the years 1840–45; 5. 16——Discontinuance of transportation to Van Diemen's Land by the end of 1852, strong opposition having been raised by the colonists, 5–7. 11.

Annual transmission of about 500 or 600 convicts to Western Australia, which is now the only outlet for transportation, 8. 12, 13——Statement in detail, showing that in the years 1848–52 the total sentences to transportation, exclusive of Ireland, were 16,229, and the total number actually transported, 10,963; 14, 15, and *App.* (*First Rep.*) *p.* 179——Necessity in 1853 for an alteration of the law, when the sentences could in such few instances only be carried out, 17——Grounds upon which it was determined to substitute shorter terms of penal servitude for longer sentences of transportation; explanation as to the terms thus substituted, 18. 123–156. 216.

On 30 September 1853 there were 9,370 males and 480 females under sentences of transportation in Great Britain, and Bermuda and Gibraltar, 19. 25–29; and *App.* (*First Rep.*) *p.* 179——Origin of the ticket-of-leave system in the large accumulation of

convicts

Reports, 1856—*continued.*

*Waddington, Horatio.* (Analysis of his Evidence)—*continued.*

convicts not transported, 20——Summary power of revoking the licence adverted to as an inducement to good conduct, 20. 52–55. 236, 237. 247——Of the number under sentence in September 1853, 1,320 males have since been transported to Western Australia, 21–24. 32, and *App.* (*First Rep.*) *p.* 179——Of the same number, 4,873 males and 279 females had been discharged under licences up to March last, 29, 30, and *App.* (*First Rep.*) *p.* 179, 180——There have been 179 licences revoked, 30, 31, and *App.* (*First Rep.*) *p.* 179, 180——There remain of those under sentence in 1853, 3,287 yet to be disposed of, 31, and *App.* (*First Rep.*) *p.* 179.

Evidence tending to show that the effect of the ticket-of-leave system has been at least as good as could in reason have been anticipated; details hereon, 33 *et seq.* 159, 160 ——Few discharges by tickets of leave in Ireland, 35——Besides those in England and Wales whose licences have been revoked, a larger number have been recommitted for additional punishment, 35–51, and *App.* (*First Rep.*) *p.* 180——Of 447 reported for misconduct up to 11 March last, 179 had their licences revoked, 25 were acquitted on trial, and the remainder were reconvicted and sentenced for a new term, 44–62, and *App.* (*First Rep.*) *p.* 180.

Calculation, founded on the criminal statistics for 1853, 1854, and 1855, that the system of penal servitude and tickets of leave, in lieu of transportation, has not produced any serious increase of crime, 64–109, and *App.* (*First Rep.*) *p.* 180, 181——Peculiar difficulty felt in dealing with the case of female convicts under long sentences, 110, 111. 116——Great importance of increased facilities for the transportation of female convicts to the colonies, 111–113——A new penal colony is most highly desirable, not only in reference to female convicts, but as an outlet to the worst class of male offenders now retained in this country, 111–115. 118–122. 190. 202–205——Various objections of colonists to the reception of convicts, 113. 238, 239.

Reference to the recent establishment, through Colonel Jebb, of a female penitentiary at Fulham, 116, 117——If the outlet to Western Australia were permanent, the worst class might all be absorbed in that colony; in fact, the colony now requires more convicts than are annually sentenced to transportation, 119. 161–172. 249——Improvement if there were sentences of penal servitude for five years, with the power of shortening the term, in case of good conduct, to three years, 144–147. 160. 216. 248——Principle adopted as to the period of giving tickets of leave to men under sentence of transportation on the passing of the Act of 1853; 157, 158——Expediency, if the ticket-of-leave system be found to answer, of extending it to cases of penal servitude, the terms in such cases being, in the first instance, longer than at present, 160. 248.

Reason for sending only 280 convicts to Western Australia in 1854; 164, 165—— Doubt as to the power to send to Western Australia convicts under sentence of ten years' penal servitude, 167——Power of retaining in penal servitude for periods equal to the sentence of transportation, 168——Suggestion that it may be desirable to return to sentences of transportation for ten years, in order to meet the demand for convict labour in Western Australia, 172. 249——Impracticability of reclaiming some of the more confirmed criminals, 173——Objection to a system of penal servitude for life in some establishment in or near this country, 174–190.

Opinion that the worst criminals should be chiefly transported to the colonies, 183. 204, 205——Evil result of the system of association of convicts in Norfolk Island and Van Diemen's Land, 188–190. 193——Necessity of any new penal colonies being created in districts not yet settled, 190——Commencement, in 1848, of the system of solitary confinement and employment on public works previous to transportation with tickets of leave, 191. 198–202. 209——System between 1838 and 1848 adverted to, 192–195—— Reason for the transportation of a comparatively small number in 1848; 196, 197.

Approval of the system of preparing the transports for tickets of leave abroad by first subjecting them to penal servitude and discipline at home, 201–205——Demand in Western Australia for artisans and skilled labour, 206——Practically those under sentence for seven years did not generally pass more than three or three years and a half in this country, 207, 208——Distinction between a "ticket of leave" to a transported convict and a "licence to be at large," under the Act of 1853; 209–220.

Objection to a system of surveillance in the case of licences, or to limiting the convict to certain localities, 213, 214. 218–220. 243, 244——Practice save in exceptional cases to exact the full term of direct sentences of penal servitude, 217. 231–133. 240–242—— Much worse position of a licensed man than of one who has fulfilled his entire term of penal servitude, 217——Number of Irish convicts sentenced to transportation and number actually transported in the years 1848–52; 222–225——Immense reduction of crime in Ireland since 1848; 224–228——Less available character of Irish than of English convicts, so that comparatively few of the former have been sent to Australia, 229, 230.

Less opportunities of ticket-of-leave men than of free men in regard to employment, &c., 234–236——Hardship in cases of sentences of transportation if the system of licences were abolished, 240——Misapprehension under which the recorder of Birmingham assumed that licences would be granted in cases of sentence of penal servitude, and

Reports, 1856—*continued.*

*Waddington, Horatio.* (Analysis of his Evidence)—*continued.*

passed sentences on that understanding, 241, 242——Mitigation subsequently of these sentences on application from the recorder to Sir George Grey, 242——Unwillingness of the Home Office to adopt any system of surveillance in regard to the ticket-of-leave men, 243, 244——Voluntary information given in some instances by the local police, 244, 245——Frequent communication between the ticket-of-leave men and the gaol chaplains, 245, 246.

[Second Examination.]—Return delivered in (App., First Rep., p. 182), as regards England and Wales, and explanation thereon, as to the number of persons sentenced respectively to transportation and penal servitude in 1853, 1854, and 1855; 251–253——Return (App., First Rep., p. 182), and explanation thereon, as to the number of male and female convicts who have been discharged in Ireland between the 1st September 1853 and the 10th April 1856; 254–262——Nominal return (App., First Rep., p. 183) referred to, showing that twenty male convicts and nine female convicts have been discharged on tickets of licence in Ireland up to the 10th April 1856; 254. 263, 264——Other returns, as required by the Committee, shall if possible be procured by witness, 257, 258. 265, 266.

*Wakefield House of Refuge.* Particulars relative to the house of refuge at Wakefield for discharged females; favourable operation of the institution as an avenue to honest occupation, *Shepherd* 3193–3208.

*Wakefield Prison.* Witness has been governor of the house of correction at Wakefield for the West Riding of York for twenty-four years; was previously, for six years, deputy governor, *Shepherd* 3046–3048——Considerable use made by Government since 1847, of Wakefield prison for the treatment of convicts under sentence of transportation or of penal servitude, *ib.* 3049–3052——Average of about 600 prisoners, including West Riding offenders, *ib.* 3053, 3054——Gradual and considerable increase in the readmissions of ticket-of-leave men, *ib.* 3057–3061. 3080, 3081——The total number in the prison has been ninety-nine, and there may have been more who could not be identified, *ib.* 3059, 3060. 3065–3070——Average annual earnings of 5 *l.* a year by each prisoner, *ib.* 3212–3214——Nature of the prisoners' employment, *ib.* 3219.

*See* also *Tickets of Leave, or Licences to be at Large*, 9.

*Wales.* Number of ticket-of-leave men released in Wales; proportion to the population and to other criminals, *App.* (*Second Rep.*) *p.* 196.

*Walpole, Rev. Joseph Kidd.* (Analysis of his Evidence.)—Chaplain of the "Stirling Castle" invalid hulk, at Gosport, 2422–2424——Was chaplain to convicts in Australia from 1837 till 1848, and has been chaplain in convict ships, and at Dartmoor and Gosport, since the latter year, 2426–2428——Recommended extension of transportation to Western Australia, by sending out those men convicted of lighter crimes, and for the shorter sentences, 2429–2434. 2487–2489. 2522——Importance of an organization for the proper spiritual superintendence of the convicts in the colonies, 2435, 2436. 2439. 2545.

Demand for convict labour on public works in Western Australia, 2438, 2439——Anxiety in Moreton Bay for convict labour, the feeling in New South Wales being opposed thereto, 2440. 2516–2520——Obstacle to a penal colony in North Australia, the climate being too cold, 2441, 2442. 2520, 2521. 2534——Evidence in favour of a penal establishment in the Falkland Islands, so that the wants of ships might be provided for by means of convict labour, 2444–2448. 2522–2527. 2563–2572.

Belief that recently the ticket-of-leave system has not worked well, and that reconvictions are on the increase, 2449–2452——Small proportion of those released on ticket of leave from the "Stirling Castle" whom witness knows to have turned out badly, 2452–2464——On the whole, the system has worked as well as could be expected, 2455——Advantage if in each case there were some person through whom inquiries might be made of the ticket-of-leave man by the chaplain, 2465, 2466——Improvement if the term of penal servitude were liable to remission as an inducement to good conduct, 2467–2475. 2554–2558.

Under special circumstances only should the ticket-of-leave man be sent to the place of conviction, 2475–2481. 2561, 2562——The proposed houses of refuge are very desirable, and would be best situated if in some rural district, 2482–2485——For some classes of offenders transportation is very expedient, as being not only deterrent, but more reformatory than penal discipline and release in this country, 2487. 2526. 2539–2545——The discipline at Dartmoor, which is very excellent, is much dreaded by the prisoners, 2491–2498.

Care necessary in order to prevent long sentences of penal servitude being injurious to the health or mind of the convict, 2499–2505. 2547–2554——Greater dread entertained by the majority of criminals of sentences of penal servitude than of transportation, 2506–2514——Necessity, in the first instance, of employing the convicts in the colonies on public works, 2523–2525——Eventually the Falkland Islands might be settled by

Reports, 1856—*continued.*

*Walpole, Rev. Joseph Kidd.* (Analysis of his Evidence)—*continued.*

by released convicts, their families being sent out to them, 2527-2529——Manner in which Australian criminals are punished, 2531, 2532.

Reference to the relinquishment of the idea of forming a penal colony in Harvey Bay, 2533, 2534——Repect in which convict labour might be desirable in the Chatham Islands, 2535-2538——Expediency of penal servitude being deterrent, whilst at the same time it may be partly remitted, 2557, 2558——Question as to the policy of extending transportation, if it be considered a boon as compared with penal servitude, 2558-2560.

*WESTERN AUSTRALIA:*

1. *General Character of the Colony; its Failure.*
2. *Number of Convicts sent out in recent Years.*
3. *Good Conduct of the Convicts.*
4. *Expense to this Country of Transportation.*
5. *Demand in the Colony for Convicts; the same considered.*
6. *Extent to which advisable to continue Transportation.*
7. *Recent Complaint by the Colony against the System as now conducted.*
8. *Discipline carried out by the newly appointed Governor.*

1. *General Character of the Colony; its Failure:*

Stagnant position of this colony which led to the colonists in 1849-50 to apply for convicts, *Elliot* 308-315. 408, 409——Character of the soil, climate, &c., *ib.* 309, 310——Inadequate increase of the free population as compared with the increase of convicts, *ib.* 335-342. 349-353——Great increase of imports adverted to and explained, *ib.* 347, 348. 351——Moderate increase of exports since 1854, *ib.* 347, 348.

State of the colony in 1849 and in 1854; doubt as to any increase of prosperity through the convict system, *Elliot* 348-351——The original plan of settling Western Australia was altogether faulty, and the colony never throve, *ib.* 493-495——Grounds for concluding that transportation has been a failure as regards benefit to the colony, *ib.* 4095-4097.

2. *Number of Convicts sent out in recent Years:*

Annual transmission of about 500 or 600 convicts to Western Australia, which is now the only outlet for transportation, *Waddington* 8. 12, 13——Of the number under sentence in 1853, 1,320 males have since been transported, *Waddington* 21-24. 32, and *App.* (*First Rep.*) *p.* 179——Reason for sending only 280 convicts in 1854, *Waddington* 164, 165——Reason for the transportation of a comparatively small number in 1848, *ib.* 196, 197.

Since December 1852 Western Australia has been the only outlet for transports, *Elliot* 306, 307——Number of convicts sent out to the colony in each of the years 1850-1854; the total number is 3,911, *ib.* 316-334——Circumstances under which the demand in the colony for convict labour cannot at present be properly supplied from this country, *ib.* 362-366. 421, 422. 490-492.

3. *Good Conduct of the Convicts:*

Unexceptionable conduct, in the main, of the convicts, *Elliot* 343.

4. *Expense to this Country of Transportation:*

Large public expenditure in the colony through means of the convicts, *Elliot* 347, 348. 351——Particulars as to the cost of the convict establishment; total of about 400,000*l.* in five years, *ib.* 356-361. 4068, 4069——Enormous cost of transportation to Western Australia, *Jebb* 1138, 1139. 1213-1216. 1223-1235. 1347——Calculation that 400,000*l.* have been paid for sending out about 1,000 convicts, *ib.* 1347.

5. *Demand in the Colony for Convicts; the same considered:*

There has recently been an application to the Home Office to send out 700 convicts, *Waddington* 162. 169——It is anticipated that the colony may take about 600 convicts yearly for some time to come, *ib.* 162. 171——Demand for artisans and skilled labour, *ib.* 206——Anxiety of the colonists at the present time for an increased number of transports, *Elliot* 342. 377-385.

Suspension by Government of free emigration to Western Australia in consequence of the absence of demand for labour, *Elliot* 342. 354. 355——Those sent out have been mainly employed in building a prison for themselves and on public works, *ib.* 344. 378——Demand for the labour of convicts on public works, on account of the local expenditure, rather than for the labour of ticket-of-leave men on the assignment principle, *ib.* 378-382——Doubt as to any large permanent demand for convicts in the colony, *ib.* 383. 384.

Reports, 1856—*continued.*

*WESTERN AUSTRALIA*—continued.

5. *Demand in the Colony for Convicts; the same considered*—continued.

Belief that Western Australia is favourable to the convict system merely on account of the consequent Government expenditure in the colony, *Jebb* 1354——Government and the free settlers can find employment for from 600 to 800 annually, *Crofton* 1551–1554——Demand in Western Australia for more convicts than are now sentenced to transportation; this demand, by a proper policy, may be made to increase, *Lord Grey* 1691. 1693. 1696. 1737. 1744–1746. 1755. 1770, 1771——Demand for convict labour, independently of the Government expenditure, *ib.* 1770——Demand for convict labour on public works, *Walpole* 2438, 2439.

6. *Extent to which advisable to continue Transportation:*

If the outlet to Western Australia were permanent, the worst class might all be absorbed in that colony; in fact the colony now requires more convicts than are annually sentenced to transportation, *Waddington* 119. 161–172. 249——Expediency of limiting the number, *Elliot* 342. 345——About 200 selected convicts might be annually deported from Ireland with much advantage to the colony, *Crofton* 1551–1554.

Inexpediency of foregoing the advantage of sending convicts to Western Australia in proportion to the demand, *Lord Grey* 1727. 1769. 1771——It might be desirable to incur public expense in making a railway to King George's Sound, which is greatly wanted, *ib.* 1696. 1755——There is already a depôt, and it should be carefully extended, *ib.* 1745. 1771.

Recommended extension of transportation, by sending out those men convicted of lighter crimes and for the shorter sentences, *Walpole* 2429–2434. 2487–2489. 2522——Benefit to the colony in the continuance of transportation, *Sir R. Mayne* 3448.

The Committee recommend the continuance of transportation generally, so far as the colonies may afford safe and proper facilities for the purpose, *Third Report, p.* iii.

7. *Recent Complaint by the Colony against the System as now conducted:*

Evidence relative to and extracts from a despatch from Governor Kennedy, dated 21 December 1855, complaining of the incorrigible class of convicts sent to Western Australia, and stating that there is a strong public feeling growing up in the colony upon the subject, *Elliot* 4026–4036. 4046–4054. 4061–4063. 4087–4091. 4095——Schedule adverted to and delivered in (App., Third Rep., p. 42–50), containing particulars as to convicts so incorrigible as to be considered ineligible for association with others, *ib.* 4026. 4031.

Evidence relative to a memorial recently received from the colonists, complaining that they are not fairly dealt with in the matter of convict expenditure, *Elliot* 4049–4053. 4055–4060. 4063 *et seq.*——Complaint also by the memorialists that they have not received the promised supply of free settlers, *ib.* 4055. 4092——Question as to the justice of the complaint that, as regards colonial expenses, or as regards free emigrants, there has been departure from the original agreement or understanding, *ib.* 4056 *et seq.*——Complaint by the colonists in regard to convicts who are incapable of work and become paupers, *ib.* 4070–4073.

Practicability of obviating the objections of the colonists if expense be not considered, *Elliot* 4089–4095.

Return from Western Australia, dated 20th November 1855, showing the expense to the colony in regard to reconvictions of ticket-of-leave holders and conditionally pardoned men, *App.* (*Third Rep.*) *p.* 41.

8. *Discipline carried out by the newly appointed Governor:*

Statement as to the discipline carried out by Governor Kennedy; tendency towards stringent treatment, *Elliot* 4078–4081.

*See* also *Expense of Transportation.* *Labour of Convicts.* *Transportation.*

*Westminster.* Data on which witness concludes that there are fifty ticket-of-leave men in Westminster, or at least very nearly that number, without reference to conditionally pardoned or absolutely discharged criminals, *Loome* 2596–2617. 2630–2632. 2649–2659. 2707–2710. 2732–2745——There are, most probably, several others besides those known to witness, *ib.* 2630–2632. 2707–2710.

*Whitty, Captain Irwine S.* (Analysis of his Evidence.)—Is one of the directors of convict prisons; superintends the prisons for public works and for invalids, 863, 864——Accommodation in the several public works prisons, 865–867——Accommodation in the prisons for the invalids, 866–868——Several minimum periods at which, according to the instructions of the Secretary of State, licences are granted to men under sentences of transportation, 870–874——Effect of the conduct of the prisoners upon the period before discharge, 874, 875——Care taken in recording the conduct and character of the prisoners; belief that the estimate or record is mostly reliable, 875–900. 901. 969–973.

Varying

Reports, 1856—*continued.*

*Whitty, Captain Irwine S.* (Analysis of his Evidence)—*continued.*

Varying nature of the employment on public works, 876——Lighter work assigned if the ordinary labour prove injurious to health, 877——Regard had to each prisoner's former occupation, 878——Mode of proceeding adopted with regard to the actual granting of the licence when the time has come, 879-887——Practice in sending discharged prisoners to their homes, 888——Payment of part of each prisoner's gratuity by post-office order at the place of his destination, 888. 894——Practice in sending prisoners who have no homes to the place of conviction, 889-894.

Allotment of earnings to prisoners on public works upon character as well as upon industry; different amounts awarded; 896——Tabular statement, and explanation thereon, as to the per-centage of revocations in the case of licensed public works prisoners, 897-900——Regular per-centage increase of revocations, 897——Fewer revocations in the case of men well conducted when in prison than in the case of the misconducted class, 899, 900——Complaint by several men whose licences have been revoked that they have been unduly interfered with, and pointed out by the police, 903-907.

Evidence showing that sentences of penal servitude have a much more unfavourable effect upon the conduct and labour of the prisoners than sentences of transportation have, where the detention depends on the conduct, 908-922. 933-936. 954-956——Expediency of the hulks being given up; they are in fact in course of abandonment; 923-928——Difficulty in the system of agricultural labour at Dartmoor on account of the increasing extent of land under operation, 929-931——Belief that as reclaiming the prisoners agricultural employment acts very well, 932.

Some invalid transports have continued in imprisonment in this country for six years, 937-940. 948, 949——Long imprisonment in the case of able-bodied transports is still prospective, 941, 942——Actual employment on public works at Portland for six years, or any longer period, would not of itself be injurious to health, 943-953. 959-968——Probable effect, however, of long imprisonments or imprisonment for life in impairing the mental and physical faculties, 952. 961-964.

Approval of the proposition that sentences of penal servitude be for longer periods, with power to shorten them, 957, 958——Inequality at first of the same punishment to different prisoners on account of their previous habits, 966, 967——Probable accuracy of the chaplain's observations as to the moral improvement of the prisoners, 969-973——Preference felt by many convicts for transportation as compared with penal servitude at home, 974-978.

[Second Examination.]—Further statement as to the convicts' earnings in the public works prisons, 979, 980——Form of notice to convicts under sentence of transportation and penal servitude, laying down rules as to treatment in the several stages, and as to the privileges and gratuities for good conduct and labour, 980——Intention to reduce the number of convicts at Dartmoor to 800, invalids exclusively, 981——Unfavourable effect of sentences of penal servitude as regards moral improvement, 982——Steps being taken for the abandonment of the hulk system, further adverted to, 984-988.

Anticipated unfavourable effect of penal servitude sentences as compared with sentences of transportation, under the Act of 1853, though in a less degree than as compared with the sentences previous to the Act of 1853, 989-1002——Regulation, in case of long sentences of transportation now passed, that the convict shall pass a portion of the term in solitary confinement and on public works at home, and then, if able-bodied, be sent to Western Australia, 991-997. 1029-1034.

Approval of sending discharged prisoners, who are without homes, to the place of conviction, 1004-1007——Great advantage if places of refuge and reference were established throughout the country for the employment of discharged prisoners, 1008-1012. 1023, 1024——These refuges should be under private management, 1013-1015——Further opinion as to penal servitude sentences being more feared than sentences of transportation, 1016, 1017——Advantage to this country in transporting the worst class of convicts, 1018.

Discharged convicts are sometimes interdicted from returning to certain counties, under penalty of forfeiture of licence, 1019-1022——Improbability of the precise nature of the sentence being calculated upon before the crime is committed, 1025-1028——Power under the Act to grant licences to penal servitude men, 1035, 1036——Notices are issued to female convicts as well as to male convicts, 1037, 1038.

*Whitty, Captain.* Excellent organization of Portland, and excellent discipline carried out by Captain Whitty, when governor, *Jebb* 1047. 1051. 1085, 1086.

*Withheld Licences.* On account of misconduct in prison 554 licences have, since the passing of the Act, been withheld for a time, *Jebb* 1054.

Reports, 1856—*continued.*

*Wright, Mr.* Success of the plan of sureties adopted by Mr. Wright, of Manchester, for obtaining employment for discharged prisoners, *Hill* 1926–1929——Doubt as to many persons being found to give guarantees of good conduct of released convicts, according to the plan of Mr. Wright, *Thwaites* 2908–2910.

*Wurtemberg.* Official report as to the superintendence of criminals after their liberation from prison, *App.* (*Third Rep.*) *p.* 65——Practice in regard to confinement to the domicile; liberty of action under certain conditions, *ib.* 65, 66——Particulars, in detail, relative to the Wurtemberg Society and the assistant societies for providing for liberated convicts, *ib.* 66–70.

# INDEX

TO

# REPORTS

FROM THE

SELECT COMMITTEE

ON

# TRANSPORTATION.

*Ordered, by* The House of Commons, *to be Printed,*
11 *July* 1856.

[*Price* 9*d.*]

355—I.

*Under* 12 oz.

*Brought from the Lords, 24 July* 1856.

# REPORT

FROM THE

SELECT COMMITTEE OF THE HOUSE OF LORDS,

APPOINTED TO INQUIRE INTO

**The Provisions and Operation of the Act 16 & 17 Vict. cap. 99, intituled, "An Act to substitute, in certain Cases, other Punishment in lieu of TRANSPORTATION;**

AND TO REPORT THEREON TO THE HOUSE;

TOGETHER WITH THE

MINUTES OF EVIDENCE,

APPENDIX AND INDEX.

*Ordered, by* The House of Commons, *to be Printed,*
25 *July* 1856.

## ORDER OF REFERENCE.

*Die Veneris*, 23° *Maii* 1856.

"SELECT Committee appointed to enquire into the Provisions and Operation of the Act 16th and 17th Vict., cap. 99, intituled 'An Act to substitute in certain Cases other Punishment in lieu of Transportation'—The Lords following were named of the Committee: The Committee to meet on Tuesday next, at Three o'clock, and to appoint their own Chairman:

Ld. President.
Ld. Privy Seal.
D. Newcastle.
M. Lansdowne.
M. Salisbury.
E. Derby.
E. Stanhope.
E. De Lawarr.
E. Chichester.
E. Grey.
V. Dungannon.
L. Bp. Oxford.
L. Sundridge.
L. Lyttelton.
L. Ardrossan.
L. Colchester.
L. Wharncliffe.
L. Monteagle of Brandon.
L. Campbell."

# REPORT.

BY THE LORDS COMMITTEES appointed a SELECT COMMITTEE to inquire into the Provisions and Operation of the ACT 16 & 17 Vict. cap. 99, intituled, "An Act to substitute, in certain Cases, other Punishment in lieu of Transportation," and to Report thereon to The House:—

ORDERED TO REPORT,

THAT the Committee have met, and considered the subject-matter to them referred, and have examined several Witnesses in relation thereto, and have agreed to the following RESOLUTIONS; viz.

1. That, in the opinion of the Committee, a continuance of the system of Transportation to some colony or colonies, with such improvements as experience has suggested, or may suggest, would be highly desirable, provided that the system can be carried on with advantage to the colony, and with satisfaction to the colonists.

2. That the peculiar advantage of Transportation lies not so much in the mere fact of carrying into effect in a distant country sentences of imprisonment and penal labour—establishments at home, under the public eye, having, for such purposes only, some considerable advantages—but in the power of employing convicts under more or less of restraint in a community where their labour may be peculiarly valuable, and in which the demand for it is such as to give facility for their finding ready employment subsequently as free labourers, and ultimately for advantageous settlement.

3. That to make a colony a fitting place for the reception of convicts, it is necessary that there should be within it some considerable demand for their labour, either for public improvements or by private capital; and that there should be already within it, or be likely to arise, such an amount of free population as will prevent a great inequality in the sexes, and too great a disproportion of the convict element.

4. That, according to the evidence laid before the Committee, it would not be desirable to send convicted prisoners either to Moreton Bay, or to the Red River, or to the Falkland Islands.

5. That, in regard to Vancouver's Island, the evidence is not sufficiently ample to warrant a present decision. The distance, and consequent expense, present, no doubt, a strong objection; and there may be difficulties arising from the presence of a considerable population of Indians: but the position is one of commercial and political importance: the soil and climate are good, and

the settlement might, in spite of some obstacles, be made inviting to free settlers. On the whole, therefore, the point may be deemed well worthy of further consideration and inquiry on the part of Her Majesty's Government.

6. That, in the event of a new Settlement for the reception of convicts being formed, the Committee would desire to call the attention of the Government (in conformity with the general direction indicated by Lord Stanley and Mr. Gladstone, as successive Secretaries of State) to the northern portion of Australia; and more especially, under the present altered circumstances of that country, to the head of the Gulf of Carpentaria and the adjacent Islands. The climate, in spite of the latitude, appears not ill adapted to European constitutions; the soil is fertile; and while it is not so near the peopled settlements of New South Wales as to give cause of alarm, or awaken jealousy on their part, it is yet sufficiently within reach to hold out the expectation that free settlers might, ere long, follow in the wake of such an establishment, and supply the means of profitable employment to the convicts.

7. That, however, in the opinion of the Committee, among existing colonies, that of Western Australia seems to offer the only field for the continuance of the system of Transportation.

8. That, in the colony of Western Australia, the system of Transportation appears to have been carried on with advantage to the colony, with satisfaction to the colonists, and with undoubted benefit to the convicts themselves, until within the last few months, when a change has been made in the selection of the convicts sent from home; the Act of 16 & 17 Vict. c. 99, having now come into full operation, and being supposed, according to the evidence of Colonel Jebb, to render compulsory the transportation of all prisoners condemned to the longer periods of punishment, and found to be of sufficiently strong health. Thus the power of selection which previously existed has practically ceased. Thus the worst and most flagitious class of offenders (some of them, indeed, utterly unfitted for transportation under any system) is now sent out instead of a less depraved one, as before.

9. That, in the opinion of the Committee, it is essential to revert without delay to the previous practice of selection in this respect.

10. That the continued influx of convicted prisoners into a colony of so limited a population as Western Australia, will, however, present many practical difficulties, which will require the vigilant attention of Her Majesty's Government. Under such circumstances, any measures that can give increased attraction to free settlers, or invite capital and labour to the colony, would be most desirable; and among others there is one which, according to the evidence laid before the Committee, may deserve to be specially mentioned. While maintaining, if it be thought desirable on other grounds, the present upset price of land in the other Australian colonies, and without questioning its merits or advantages elsewhere, the Committee would recommend to the consideration of the Government the expediency of making a large reduction in that price within this colony, and, indeed, within any colony in which convicts from England are received.

11. That complaint also has been made to the Committee, that the provision by which the convict is called upon to repay the expense which has been incurred in carrying him out to Australia, and, in certain cases, of paying a large proportion of the expense of sending out his family, has the effect of unduly raising the price of labour to the colonist, and of throwing obstacles in the way of bringing out their families—an object of the highest importance to the good

good order and morals of the colony. The Committee would, therefore, recommend an early reconsideration of these provisions.

12. That it is desirable to review and to revise the provisions of the Act 16 & 17 Vict. c. 99, by which the terms of Transportation, as previously existing, were commuted for shorter terms of penal servitude in England. It may be questioned whether the abridgment of the penal sentences, on condition of their being passed at home, is founded on just principles; and it is certain that this change has placed a new and unnecessary difficulty in the way of well-regulated Transportation.

And the Committee have directed the MINUTES OF EVIDENCE taken before them, together with an APPENDIX thereto, to be laid before your Lordships.

10th July 1856.

## LORDS PRESENT AT EACH SITTING OF THE COMMITTEE.

*Die Martis*, 17° *Junii* 1856.

| | |
|---|---|
| Lord Privy Seal. | Earl of Chichester. |
| Duke of Newcastle. | Viscount Dungannon. |
| Marquess of Salisbury. | Lord Colchester. |
| Earl Stanhope. | Lord Wharncliffe. |
| Earl De Lawarr. | |

*Die Jovis*, 19° *Junii* 1856.

| | |
|---|---|
| Lord Privy Seal. | Viscount Dungannon. |
| Marquess of Salisbury. | Lord Colchester. |
| Earl Stanhope. | Lord Wharncliffe. |

*Die Martis*, 24° *Junii* 1856.

| | |
|---|---|
| Lord Privy Seal. | Viscount Dungannon. |
| Marquess of Salisbury. | Lord Bishop of Oxford. |
| Earl Stanhope. | Lord Colchester. |
| Earl De Lawarr. | |

*Die Veneris*, 27° *Junii* 1856.

| | |
|---|---|
| Lord Privy Seal. | Viscount Dungannon. |
| Marquess of Salisbury. | Lord Ardrossan. |
| Earl Stanhope. | Lord Colchester. |
| Earl De Lawarr. | Lord Wharncliffe. |

*Die Martis*, 1° *Julii* 1856.

| | |
|---|---|
| Marquess of Salisbury. | Viscount Dungannon. |
| Earl Stanhope. | Lord Wharncliffe. |
| Earl De Lawarr. | |

*Die Veneris*, 4° *Julii* 1856.

| | |
|---|---|
| Marquess of Salisbury. | Viscount Dungannon. |
| Earl Stanhope. | Lord Colchester. |
| Earl De Lawarr. | Lord Wharncliffe. |
| Earl of Chichester. | |

*Die Martis*, 8° *Julii* 1856.

| | |
|---|---|
| Lord Privy Seal. | Earl De Lawarr. |
| Marquess of Salisbury. | Viscount Dungannon. |
| Earl Stanhope. | Lord Colchester. |

# MINUTES OF EVIDENCE.

# LIST OF WITNESSES.

*Die Martis*, 17° *Junii* 1856.


| | PAGE |
|---|---|
| Mr. Matthew Henry Marsh | 3 |
| Mr. Arthur Hodgson | 9 |
| Captain Charles FitzGerald, R. N. | 15 |


*Die Jovis*, 19° *Junii* 1856.


| | |
|---|---|
| Captain John Lort Stokes, R. N. | 25 |
| Lieutenant-Colonel William Caldwell | 32 |
| John Rae, Esquire, M. D. | 33 |


*Die Martis*, 24° *Junii* 1856.


| | |
|---|---|
| George Rennie, Esquire | 37 |
| Captain Bartholomew James Sulivan, R. N. | 44 |
| George Fletcher Moore, Esquire | 49 |


*Die Veneris*, 27° *Junii* 1856.


| | |
|---|---|
| Mr. Richard M$^{c}$Bryde Broun | 59 |
| Mr. William Hilton Hovell | 65 |
| Mr. Thomas Newte Yule | 71 |


*Die Martis*, 1° *Julii* 1856.


| | |
|---|---|
| Captain Edmund Yeamans Walcott Henderson, R. E. | 81 |
| Lieutenant Joseph Dayman, R. N. | 96 |
| Mr. John Miles | 97 |


*Die Veneris*, 4° *Julii* 1856.


| | |
|---|---|
| Colonel Joshua Jebb, R. E., C. B. | 105 |

# *Die Martis*, 17° *Junii* 1856.

LORDS PRESENT:

| | |
|---|---|
| Lord Privy Seal. | Earl of Chichester. |
| Duke of Newcastle. | Viscount Dungannon. |
| Marquess of Salisbury. | Lord Colchester. |
| Earl Stanhope. | Lord Wharncliffe. |
| Earl De Lawarr. | |

THE LORD PRIVY SEAL in the Chair.

Evidence on the Act 16 & 17 Vict. c. 99, on Transportation.

*Mr. M. H. Marsh.*

17th June 1856.

Mr. MATTHEW HENRY MARSH is called in, and examined as follows:

1. *Chairman.*] ARE you acquainted with the circumstances of the colony of New South Wales?

Yes; I have been there 15 years.

2. Will you give a short outline of the history of your connection with the colony?

I went out there in 1840. I bought stations, first of all, in the New England district, and then formed a station on Darling Downs. I had originally 14,000 sheep; I have now 100,000; they have increased in geometrical progression.

3. During that period, the discussions upon the subject of the placing of convicts within the colony have been in full vigour?

In full vigour during the whole of the time; at first, the taking away the convicts was exceedingly unpopular; and then afterwards, I think, it was taken up as a political question a good deal, and the proposal to bring them back again became unpopular also.

4. Do you conceive that the feeling upon the question is now a settled one in the colony?

I think it is quite settled in all the settled districts of Australia. My own opinion is, that for a long time in the northern district, where they wished to have a separate colony (which they are going to get now), there were two parties; one was in favour of separation with convicts, the other was in favour of separation without convicts; and we have ultimately compromised the matter to get a separation from New South Wales; and although my own feeling was in favour of having convicts, I think I am now bound in honour, not only not to seek the introduction of them, but to do all I can to prevent the introduction of them into the northern colony. And that is the feeling of many others. In short, there is no chance of the question ever being mooted again in the colony, with a view to the introduction of convicts into the settled districts.

5. You speak of Moreton Bay?

Moreton Bay and the adjoining districts.

6. Can you give an outline of the objections entertained to the reception of convicts in the settled districts?

The nominal objection was the moral injury to society; but I think one of the principal of the real objections (apart from the agitation being a sort of political trade) was, that it lowered the price of labour, and consequently was

*Mr. M. H. Marsh.*

17th June 1856.

unpopular, not only with the labourers, but with the storekeepers and shopkeepers who sell their goods to them, and of course are interested in maintaining high wages. I think that was the real opposition to it.

7. You consider it to be now a settled point in your own mind?
I consider it a *fait accompli.*

8. Even in the Moreton Bay district?
Even in the Moreton Bay district.

9. And that it is no longer an open question?
Certainly not.

10. And that therefore no change of circumstances, and no mitigated or improved condition of transportation, by reason of previous training and reformation which the parties might have gone through at home before they were sent, and no other modification of the system of transportation, would affect the result?
No, I think that nothing would do it now; it is a thing that is completely settled; in fact, we feel bound in honour, after the compromise we have made, not only not to do anything for it, but to oppose it.

11. Has your opinion changed upon the subject as well as the course which you feel yourself bound to maintain?
My own opinion to a certain extent has changed with the circumstances, that is to say, having induced emigrants to come, and people having formed their connections and so on, on the ground that it is not to be a convict colony, I think that those circumstances alter the case, even to a certain extent in my own opinion; at the same time, as an abstract question, I think there is nothing so desirable as convict labour, particularly the assignment system, if it were properly managed.

12. Earl *Stanhope.*] What do you mean by the word "we." How far do you conceive the pledge to extend that has been given?
It extends to all the people now petitioning the Colonial Secretary to get a separation from the colony of New South Wales, including those who were the last who petitioned to have convicts.

13. *Chairman.*] There is no party now remaining in the settled districts of New South Wales who propose, or even would accept the admission of convicts?
Certainly not.

14. Earl *Stanhope.*] Your answer applies to parties in the colony, and not merely those now in England, urging their case at the Colonial Office?
Not merely to them, but to the whole northern colony.

15. At one time the wish for convicts was very strong, was it not?
The wish for convicts was very strong; I think the majority, certainly the majority of the superior classes, and of the intellect of the northern colony, was entirely for it; but whatever their private opinion may be now, in public I am quite sure it would not be entertained for a moment.

16. You spoke of a sort of pledge having been given; to whom has that pledge been given?
To the anti-convict party; I do not know that others have given a positive pledge.

17. Does that pledge apply only to Moreton Bay, or to any other part?
The whole of the northern settlements.

18. Lord *Wharncliffe.*] Including Port Curtis?
Yes, but not including districts further off; on the contrary, we should be glad to facilitate any settlement further off. We should not consider ourselves at all pledged to prevent convicts coming to Cape York, or even to the Gulf of Carpentaria, which are very eligible situations.

19. *Chairman.*] Then you do not consider that there would be any strong feeling in any party in New South Wales against the establishment of a new colony at a distance from themselves, admitting convicts?
I think certainly not; and it ought not to be, for this reason, that Dr. Laing, who

who is a noted anti-convict agitator, on one occasion himself proposed it on the ground of its being humane towards convicts: at the same time that he argued that it would be a bad thing to have them amongst a recognized community, he raised the question of having them at some distant point in Australia.

20. In that point of view, what would be the process of convict planting; would it be simply that convicts should be introduced into the colony at its first foundation, with the view of preparing it for the reception of free emigrants, or that the convict system and the free emigrant system should co-exist for a considerable time afterwards?

I should imagine that they might co-exist together for a great many years; if, for instance, a convict settlement was established at Cape York, which I should propose, having seen the country there, I imagine that it would co-exist with a free settlement for probably 40 or 50 years; and ultimately the same case would occur as has occurred in Sydney.

21. What do you consider to be the circumstances determining the opinion of people settled in a colony, either for or against the reception of convicts?

I should say, when the colony becomes great and powerful, and wealthy; when the emigrants are much more numerous than the convict population; and also when the first generation comes into play; because when the children of convicts begin to grow up and to have political influence, one of the great objections to the introduction of convicts is, that they keep up a class distinction. Many of those sons of convicts were the most strenuous against the system of convicts, supposing that it had the effect of keeping them as a separate class from others, at least so they thought.

22. Earl *Stanhope.*] How far is Cape York from Moreton Bay?

Cape York is 12° south, and Moreton Bay is 27½°.

23. Cape York is the station, in your opinion, best suited for the establishment of a colony for the reception of convicts?

Yes; I have landed there in going through Torres Straits, and it is a country well adapted for sheep-farming and for the common purposes of Australian settlers; in fact, it is a very fine country: I judge from the trees.

24. Lord *Colchester.*] You see no objection to the climate of Cape York for Europeans?

No; I have never been there but at one season of the year; because during the other monsoon it is never approached.

25. Is it a fine grazing country?

Very fine. In going through Torres Straits, one is forced to anchor every night, and we cast anchor at two or three o'clock in the afternoon; and I have no hesitation in saying that, from my experience, it is a country well adapted for settlement; in fact, I never saw land near the sea so good for sheep-farming as at Cape York; generally speaking, close to the sea it is not well adapted for it.

26. Lord *Wharncliffe.*] Did you see any water there?

I think there was plenty of water.

27. Earl *Stanhope.*] Are the aborigines supposed to be numerous in that part of the country?

I believe not more numerous than in other places; they seem to be nearly the same everywhere, with this exception, that where there are large fish rivers they are generally more numerous, and on the coast where there is fish.

28. If there were a convict settlement formed at that distance, you do not suppose it would cause any jealousy or dissatisfaction at Moreton Bay?

I think not, but rather the reverse.

29. On the contrary, you think it would be welcomed?

I think it would; for it would do good to persons who cannot get rid of their surplus stock of sheep and cattle; speculators would come and buy them, and take them over there, if they could get cheap labour.

30. *Chairman.*] You think that free emigration would follow the establishment of that convict settlement as a matter of course?

*Mr. M. H. Marsh.*
17th June 1856.

Perhaps not so much within the tropics as it would in other places; but I imagine that it would; people will always go where there is anything to be got by it.

31. Would there be any such attractions in the spot as would overcome those of the gold districts in other parts of Australia?

I should think not; for this reason, that convict labour would be cheap, and the mass of emigrants go where labour is dearest, without reference to anything else.

32. Then, what would be the determining cause for the establishment of free settlement around those convicts?

I imagine that the free portion of the settlement would be only formed of capitalists; I do not think the labouring classes would go there much, except for particular purposes; some skilled artisans would probably go there.

33. If there were facilities given for the establishment in that settlement of a free population, in order that the convicts might not be left entirely by themselves, do you imagine that the giving of such facilities would ensure that such free emigrants would remain there in spite of the attraction, at no very great distance, of places where the rate of wages would be higher?

I think certainly a great number of small capitalists and farmers would always remain there in very large quantities.

34. The sort of convict system that you would contemplate for such a purpose would be the system of assignment?

The system of assignment.

35. Not the system of bringing men together to make great public works, but the system of assigned servants?

The system of assigned servants, as a general rule. Then those who were not fit for assignments, the refuse that people would not take, could be sent to public works.

36. The most penal part of the sentence you presume to have been passed in England previously to transportation?

Perhaps that would be desirable; but there is one thing to be observed about that. I have noticed that the penal system in England has the effect of injuring the minds of the convicts. The old convicts were noted for their cleverness; but since they have had the silent system, and so on, in England, many of the men are evidently more stupid, and also more helpless.

37. You allude to those that have come direct from places conducted under the separate system or the silent system. Do you distinguish between them and those who have come from public works in England, say from Portland?

I have not seen any from Portland. Most of those I knew I think came from Pentonville; they were certainly stupid, at least not so bright as the others used to be.

38. Earl of *Chichester.*] To what date do you allude?

They came in 1849. I think the last ship was in 1850, but I am not sure.

39. Viscount *Dungannon.*] Did they come out in great numbers at that time?

There were a good many shipped to Moreton Bay.

40. Was there a general impression that the silent system had, to a great extent, impaired their energies and rendered them stupid?

I have heard a great many people make the observation, and it is my own observation; I found it so in my own experience. Under the assignment system they are left to manage for themselves, and they become handy and able, whereas under the silent system they get completely helpless. Their dinner is cooked for them every day. They get comparatively useless as colonists, instead of being useful.

41. *Chairman.*] You are aware of the objection attending the assignment system arising from the extreme uncertainty of the punishment; in some cases the punishment being very severe in consequence of the character of the master, and in other cases it being no punishment, in consequence of the indulgent character of the person to whom the convict was assigned?

Certainly;

Certainly; but I consider that entirely owing to the mal-administration of the Government. Where there was a proper administration, those cases never occurred; but where there was improper management, that was the operation of the system.

42. Could you exercise any system of very efficient superintendence over thinly scattered stations?
I think an active police magistrate could do it with ease. I have known it done to perfection.

43. Viscount *Dungannon.*] Do you think that the prospect of having assignments of convict labour made to them would induce a certain class of persons, such as farmers and small tradesmen, to emigrate to Cape York?
I think so, to a great extent.

44. Would there be considerable advantage to new settlers from that?
It would be of immense advantage to new settlers. Labour is the very thing that eats up all our profit now.

45. Labour is extremely expensive?
It is not merely expensive, but it is bad. It is dear for what you get.

46. *Chairman.*] Is it also insecure, so that you cannot rely upon it?
I do not know that it is insecure; but the men are so neglectful.

47. Viscount *Dungannon.*] But labour is necessarily expensive, on account of the very high prices of the necessaries of life?
We always give rations with the labour.

48. Earl *Stanhope.*] Can you state, historically, the progress of the transaction with regard to the petition for the admission of convicts to Moreton Bay; what was the date of the petition?
The first petition for the admission of convicts to Moreton Bay was signed and sent about the 24th of December 1850.

49. What answer did you receive?
The answer is published; it is from Lord Grey; the Executive Council of New South Wales were strong against it; and Lord Grey's answer was to the effect, that if we continued in the same mind, we should have a separation. He also said, that if when we got a council of our own we petitioned for convicts, it was open to the Government in England to send them. That despatch is published in the Papers laid before the House of Commons.

50. Have there been communications of an angry character between Moreton Bay and Sydney, or any other part of New South Wales, upon the subject?
No; we are not quarrelling with anybody upon the subject.

51. Was any displeasure expressed on account of the petition which you had sent?
Not publicly; there was occasional abuse of myself and others in the Council.

52. If you had obtained the object of your petition, should you have expected any difficulty upon the subject from other parts of New South Wales?
There would have been great opposition at New South Wales to our having convicts at Moreton Bay; I have no doubt it would have been objected to, upon the ground that the convicts would have come filtering down to them.

53. Upon the answer of Lord Grey did you take any further steps?
We got an answer in 1852, and we petitioned again in 1852; we still asked for convicts. I sent a petition specially for the district I was in; and then, since that, there have been petitions for separation, but not for convicts.

54. And now the feeling is entirely changed with respect to having convicts?
The feeling is entirely changed; everybody has given up all idea of it entirely.

55. Lord *Colchester.*] How far north does the occupied country of Moreton Bay extend?
So far as the river called the Burdekin; the Burdekin is a good way north of Port Curtis; Port Curtis is about 24° south; that I believe is the extreme

*Mr. M. H. Marsh.*
17th June 1856.

extreme they have got to; but the northern colonists do not wish to have the colony extend so far as that; we only wish to have it the same size as the Sydney district, about three or four degrees of latitude on each side of Brisbane; as much as can be managed by one Council; otherwise it is too great a distance to get proper men to the Council.

56. There would still remain about 300 or 400 miles of country between you and the southern limit of any new colony at Cape York?
I think nearly 700.

57. *Chairman.*] Is there any apprehension of the convicts getting across the frontiers?
I think there would hardly be any possibility of it; first of all, across that whole country there would be blacks, and it would be very dangerous to go; another reason is, that they would not very well go by sea, for a nautical reason, that the south-east wind blows upon that coast almost constantly; the north-west monsoon only blows for a season, and does not extend far south of Torres Straits.

58. Lord *Colchester.*] You say that you know of no objection to Cape York as the site of a new settlement?
Not as far as I know; but I know nothing of what the climate is during the other monsoon; I judge by the trees, the box and apple trees; generally speaking, we know that where they flourish there is a healthy climate, a tolerably dry climate.

59. Would you consider it advantageous to have a number of convicts sent out at the outset, who have been trained to public works at Portland or other places in Europe, for the first laying out of the town and harbour?
It would be very desirable indeed to build quays and such things. There is another thing which would be very useful; a great many ships pass through there; it is a difficult navigation, from not being sufficiently known, and this colony would prevent the dreadful shipwrecks that happen; and the number of ships that go there would be very serviceable to the settlement, because each ship would spend a great deal of money there, and the convicts could not get back to Sydney; if they did escape, they could only get to India, as no ships pass on their way to the south.

60. Viscount *Dungannon.*] Would there be good localities for constructing harbours of refuge?
It is all harbour; the great barrier reef goes along outside. You go on without any motion in the ship, at the rate of 8 or 10 knots.

61. Lord *Colchester.*] You consider that the convicts who had worked half their period before they arrived in the colony would be able, when they completed their period, to engage themselves as labourers?
They would get tickets of leave, and become labourers; and they might ultimately set up as farmers.

62. Do you apprehend that there would be any danger of those persons turning pirates in consequence of the number of ships that pass along that coast?
I think not. The ships are not very valuable; they generally go almost entirely empty: they take out heavy cargoes to New South Wales and Port Philip, and then they have nothing to take on to India.

63. *Chairman.*] The gold ships do not go that way?
No: they may send a little gold to India, but nothing of any consequence.

64. Lord *Colchester.*] Such an opinion has been stated in evidence, but you do not think it a danger likely to arise?
I think there is no danger of that; the prevailing winds there would prevent it. A pirate could only go one way with the wind; she could not keep cruising about there.

65. *Chairman.*] Have you ever heard in Australia any suggestion as to the difficulty of having a settlement consisting of so large a proportion of the male sex?
No, I never heard that suggestion; I think it is a very bad thing morally, and in

in every way. It is rather a delicate subject, but I think that the effect upon the mind and upon the health is injurious. *Mr. M. H. Marsh.* 17th June 1856.

66. Is not that a difficulty which it is not easy to overcome, on account of the fact that female convicts are not so easily reformed as male convicts, and can hardly be looked to as future mothers of families?

I think that where female convicts get married and settled, they get perfectly reformed: I have known many instances where they became very excellent wives, and very good in every way.

67. Earl *Stanhope.*] And mothers of families?

Yes, I have known very numerous instances. Comparatively, old women have often numerous families in that climate.

68. Viscount *Dungannon.*] Is it frequently the case that female convicts marry?

I think they generally marry.

69. Do they marry amongst the male convicts, or do they sometimes, after their term is out, get married to other settlers?

They get married sometimes to male convicts, and sometimes to other settlers.

70. *Chairman.*] Is there any other observation that you desire to make to the Committee upon the subject of their inquiry?

I would only say, with respect to the system of transportation, that in many instances the convicts become completely reformed. In my own experience I have known some of them completely reformed in every way, some taking, perhaps, a serious and religious turn, and becoming completely reformed. I should say, as a general rule, that if you do not entirely reform them, at least nine out of ten cease to have any inclination to be criminal; they may be vicious; they may drink, and so on; but there is an entire reformation, so far as the public is concerned.

71. Do you attribute that result very much to this, that they are distributed amongst a widely scattered population, and not kept together?

I believe that up the country the mass of the population is entirely convict.

72. Earl *Chichester.*] Were they all assigned?

They were originally assigned; in my time there were many who had been assigned; indeed all of them, except those who came from Pentonville lately: of course they landed as ticket-of-leave men.

73. *Chairman.*] Did they behave well?

Very well: there were a few instances of men who had been transported for violent crimes, and who committed violent crimes again. And in case transportation is carried on in any other part of Australia, I would suggest that people transported for violent crimes should not be sent; I would rather keep them away. As far as my experience goes, those who have committed very violent crimes reform much less than any others.

74. Viscount *Dungannon.*] Have you known many who, when their term of punishment has been out, have become free settlers, and have become useful members of society to the colony?

A great many of them have become very useful—very good members of society.

The Witness is directed to withdraw.

Mr. ARTHUR HODGSON is called in, and examined as follows:

75. *Chairman.*] YOU have been resident in New South Wales? *Mr. A. Hodgson.*

I have.

76. Will you state under what circumstances, and for what period?

I went there in 1838, and have been ever since in Australia, except on a short visit to England six years ago, and during the whole of that time I have been what is called a squatter, a sheep farmer.

*Mr. A. Hodgson.*

17th June 1856.

77. In what district?
In the Moreton Bay district.

78. At one time there was a very decided feeling in Moreton Bay in favour of receiving convicts?
There was.

79. Does that feeling exist still?
No; we have been obliged to yield to the pressure of parties, and public opinion is now decidedly averse to any convicts being received in the northern district: we are politically pledged to oppose their introduction.

80. Upon what ground?
I should say the ground was principally with the view of making the colony respectable. The feeling amongst the squatters to which I belong was entirely in favour of convicts; we found that the introduction of exiles worked very well; that their dispersion in the district was not only attended with advantage to themselves, but gave us a secure and good supply of labour, and we were anxious to continue it; but the gold discoveries to the south brought about those meetings in Sydney and other parts of the colony, deprecating the introduction of these men, to which Her Majesty's Government listened, and eventually gave way. There was a reverend gentleman connected politically with Moreton Bay, Rev. Dr. Lang, who, having constituted himself into an emigration company in this country, introduced a certain class of emigrants in and around the small townships there. These men gradually enriched themselves, partly at our expense, became very clamorous against the introduction of convicts, and, having more local influence in the neighbourhood of Moreton Bay than the squatters could bring to bear, outweighed us with their opinions. The consequence has been, that during the last four or five years we have done without those exiles, and we ourselves begin to feel that the re-introduction of convicts would not be altogether advantageous.

81. Earl *Chichester.*] When you speak of exiles, do you mean the ticket-of-leave men sent from Pentonville Prison?
Yes.

82. Have you employed those exiles?
Yes.

83. What was their general character?
Their general character was very good.

84. What was their physical condition generally?
Decidedly very good indeed. A few years ago we had two or three ship-loads of exiles who were dispersed in the colony, and they became very valuable labourers.

85. Viscount *Dungannon.*] Had those men undergone the silent system?
I think rather the system of the Penitentiary.

86. Did it appear to have had any effect upon their energies?
I could not give an opinion; my own idea is, that those men, being sent into such a district, where they got fair wages and good rations, finding themselves entirely in a new sphere, made up their minds at once to become honest and useful members of society. That is my idea of the way in which the system worked so well, and to this I attribute their reformation. Having been a large employer of labour, 15 years a magistrate, and for some time chairman of a bench of magistrates, I had great opportunities of forming a judgment of them, and attribute their reformation almost entirely to the dispersion which took place upon their arrival in the colony. In no part of the globe, and in no community, has there been such a proportionate amount of reformation as in New South Wales.

87. *Chairman.*] You look upon dispersion as an essential element in the wholesome settlement of convicts?
I do.

88. Earl *Stanhope.*] Were you a party to the petitions in favour of convicts at Moreton Bay?
I was the prime mover; Mr. Leslie and myself were the two principal persons who got up those petitions.

89. What was the date of the last meeting in favour of the sending of convicts?

I think it was in 1852.

90. But still you think the circumstances have so far changed that you would deprecate their introduction?

It would be almost dangerous in that district to give vent to one's feelings in favour of convicts being introduced.

91. Even in Moreton Bay?

Yes, decidedly; we were obliged to import Chinamen from China to save our flocks and herds. I employ 20 Chinese shepherds at this moment myself: I consider that the introduction of those exiles had the effect of saving the flocks and herds in the northern districts at the time of the gold discovery.

92. But you say you are now able to dispense with them; how is that?

A considerable emigration from England direct to Moreton Bay has taken place during the last few years, and a large emigration from Port Philip, which has found its way to Sydney, and thence up along the north-eastern coast of Australia.

93. Are those parties who have tried the gold fields and got tired of them?

A great many of them, who have come from Port Philip and the gold fields in New South Wales.

94. What is the limit, speaking geographically, within which you think there would be an objection to the fresh admission of convicts?

Sixteen or seventeen years ago, there were no squatting stations in the whole district described in this map (*producing a map*); there were none who had got so far. I went to the Darling Downs, 150 miles beyond anybody else. Mr. Leslie preceded me, and I took advantage of his track. Our flocks and herds have now gone as far as Fletcher's Awl, in latitude 22½°; and from there to the mouth of the Albert or Stokes's River is only 650 miles, and good grass and water all the way; that is the direction our flocks and herds are now taking, and will reach in a short time; this is Dr. Leichardt's route on his way to Port Essington (*pointing it out on the map*).

95. Lord *Colchester*.] How far north have you any squatter stations?

Twenty-two degrees and a half.

96. Viscount *Dungannon*.] Have you gone the farthest of any?

No; I went the farthest at one time, but other squatters have gone far beyond me; we have extended greatly the last 14 years.

97. How many miles farther north?

Three hundred and ninety miles.

98. Beyond where you originally went?

Yes; we have extended about 600 miles in 14 years; and during 10 out of those 14 years the colony was in a state of comparative depression.

99. *Chairman*.] Is there now a sufficient supply of labour for the squatters from natural resources?

Yes; we have not a good supply, but we have sufficient to keep our flocks and herds; we may call it a bare sufficiency.

100. Marquess of *Salisbury*.] Do the squatters go into new districts without any authority from the state?

We have a sort of tacit authority; we are allowed to go and look at the country. Then we make tenders to the Commissioner of Crown Lands, who is a sort of guardian of Crown lands in certain districts, and those tenders are recognized. The Commissioner goes out and sees what country we take, and that we are not trespassing upon each other.

101. Is any limit put to what you take?

It is limited according to certain boundaries; we take up as much country as we like in the first instance, as long as we are not trespassing upon our neighbours; my squattage is about 98,000 acres, which I still hold.

102. Earl *De Lawarr*.] Do you anticipate a sufficient supply of labour in the event of the gold diggings prospering?

That is a difficult question; we know that we must have labour, and therefore

*Mr. A. Hodgson.*
17th June 1856.

therefore we generally look out for ourselves; we imported the Chinamen ourselves, and were anxious to import Coolies from India.

103. As the gold diggings did for some time create a great deficiency of labour, is it not likely that their extension may have the same effect again?
In the event of such extension, it is very probable.

104. *Chairman.*] Have you had many persons come to you from the gold diggings who had been attracted there in the first instance, and afterwards gave them up?
We have, during the last two years.

105. Viscount *Dungannon.*] Do those persons generally take to labour?
They are obliged to do so; they find their way up to Sydney. Then we hire them by our agents, and give them a free passage to Moreton Bay. Shepherding is very easy labour in Australia. Some of the best shepherds in Australia are the weavers from the manufacturing districts in this country.

106. Lord *Colchester.*] Supposing there were sent out to you convicts who had worked out a portion of their time in England, and who were then sent out to the colony on account of their good conduct during that time, would you prefer them to the Chinese?
If you ask my individual opinion, I certainly would; but I should not be speaking the sentiments of the inhabitants of the northern district if I said that they would.

107. Viscount *Dungannon.*] What would be their reason for not preferring them?
I think they wish to get rid of the convict taint; that is the feeling in Sydney; and it has been echoed throughout Australia.

108. Marquess of *Salisbury.*] Do you make any inquiry as to the character of the men in hiring them?
No.

109. Viscount *Dungannon.*] It is of course very important to you to get a permanent supply of labour?
Yes.

110. Marquess of *Salisbury.*] If a man came out, and it was found out that he had been a convict, would there be any difficulty in his being employed?
I do not think it would be discovered; such a question would never be asked.

111. *Chairman.*] But if the Government undertook the transaction, it would soon become odious?
Exactly; otherwise we should not be aware how he was introduced.

112. What are the limits within which you think a convict settlement might be established, without exciting a feeling of annoyance on the part of the colonists now there?
I am sure there would not be the slightest objection to Victoria River being occupied in that way. This is Victoria River (*pointing it out on the map*), and there is an expedition now going up there, under the charge of Mr. Gregory. My idea would be, that if Her Majesty's Government thought of forming a colony to the northward, they might form it there, with the ultimate idea of sending exiles to the Albert River, at the head of the Gulf of Carpentaria. I am confident that in eight or ten years' time, some of the flocks and herds will have come to that point at the rate at which we are going on now.

113. When you speak of a convict settlement, you mean one in which convicts should be employed, under control?
Yes, under control.

114. What advantage would that offer over employing them in that way in England?
If they behaved well, they would be disposed of amongst the squatters.

115. Viscount *Dungannon.*] You mean that if the men behaved themselves well

well in the convict settlement, persons settling in the colony, like yourself, would not be disinclined to employ them?

Yes. A great deal has been said about the climate of this country; but I think the strongest circumstances upon that subject is, that Dr. Leichardt, in the spot I have pointed out, lost his best man by a spear of the blacks, and he had two others severely wounded; and though in a wounded state they were obliged to travel on horseback many miles, they all reached safe, and were well when they got to Port Essington; so that the climate could not be very bad, if they could thus recover from the severe wounds of the natives.

116. *Chairman.*] Do you consider that if a new settlement was made under Government sanction at Cape York, for the purpose of admitting convicts after they had passed through a portion of their punishment, a free settlement would establish itself around them, in which the convicts themselves might ultimately be absorbed?

I do not think so.

117. You think there would not be a sufficient attraction of natural advantages to induce free settlers to go there to any great extent?

I think not.

118. Do you know the locality yourself?

No, I do not, only from hearsay.

119. Marquess of *Salisbury.*] Is the black population pretty extensive in the north?

I should say it is very extensive skirting the coast; Dr. Leichardt appears to have fallen in with many natives, and so have other explorers.

120. In the interior?

We do not know much of the interior.

121. Are there many natives in the part to which you allude?

They are numerous; we find a great many natives there.

122. Have they taken to labour under the colonists?

Not at all; you cannot secure them for a day together; they just leave you at the time when you most require them; there is no dependence to be placed upon any of them.

123. *Chairman.*] Have you any reason to know, either by personal knowledge or by information, how far north it is that settlements, with a view to sheep farming, can be carried?

We are guided entirely by this route of Dr. Leichardt, which we have always found very correct; and he gives us reason to suppose that we can carry our flocks and herds right to this point (*pointing it out on the map*), the Albert or Stokes's River.

124. Has that country been explored?

Only by Dr. Leichardt; Mr. Kennedy went from Rockingham Bay, and he had very nearly got to the end of his journey, Cape York, when he was killed, and a great portion of his journals were lost.

125. Lord *Colchester.*] Were you in the colony when Dr. Leichardt went on his last expedition?

Yes.

126. Can you state the result of it?

I believe he intended to strike from Moreton Bay for the River Victoria; and it is generally supposed that he was killed by the blacks long before he reached there; some of his mules and horses were discovered about 15 months ago by those very squatters who had gone in that direction with flocks and herds; of course they supposed they were Dr. Leichardt's.

127. *Chairman.*] Do I rightly understand from you that the fitness of a district for a free settlement in that country depends entirely upon its being fit for sheep-farming; for example, supposing it was discovered that this northern part about Cape York was not fit for sheep-farming, for what other purpose would free settlers come there?

I do not think that at the present time they would come there for any other purpose. A great deal has been said about cotton growing; but we know that we

*Mr. A. Hodgson.*
17th June 1856.

cannot grow that without a great population. At present there is little done at Moreton Bay in the way of agriculture, except for garden-stuff and what is called Indian maize; we can scarcely grow wheat there, it is too warm.

128. So that, practically, the question whether a free population could be determined to the neighbourhood of a convict settlement at Cape York would depend upon the country being fit for sheep-farming?

I should think in a very great measure; there is no doubt that sheep-farming opened out Moreton Bay; all that district is very suitable for sheep-farming; and there is no doubt that that applies to the whole of the country which we have occupied.

129. Marquess of *Salisbury.*] Have you suffered much from drought?

We have not suffered much; we think we are within the influence of the tropical rains.

130. *Chairman.*] Is there any other observation which you wish to offer upon the subject?

I only wish to add, that I have been anxious to guard myself against saying anything about convicts being sent to the colony to the north, because it is the universal feeling in the north-east district of New Holland that no more convicts should be sent among them.

131. How far north would that extend?

The boundaries of our colony to the north are not as yet defined. Then I would also observe, as regards the reformatory system which has been introduced with respect to these men, that I cannot say too much in favour of it. I think that out of 500 men coming into that district as exiles, 400 of them, at least, have become honest and respectable members of society; 80 per cent. I have often had conversations with those men, and I can easily understand how that result has been produced; they have got rid of their old associations; their thoughts and wishes flow in a new and better channel; and they have come into a colony where they can earn a living, and even put by a sum of money at the end of the year.

132. Earl *De Lawarr.*] They feel that they have a chance of redeeming their character?

Yes; and as for alluding to their having been convicted, it is the most cruel thing that can be said to a man who has undergone that punishment, to allude in any way to his former crime. He feels it more bitterly than if you gave him a slap in the face.

133. In fact it is not done, and he is under no apprehension of it?

No.

134. *Chairman.*] Have they found difficulty in entering into the marriage state?

The only difficulty is in consequence of the female sex not being proportionate to the male; but there has been no other difficulty. It is very remarkable that most of the old reformed convicts have married the best female emigrants; they have made the best selections out of the female emigrant ships.

135. Duke of *Newcastle.*] With regard to the districts in which the colonists would object to the introduction of any new convicts, is it not the fact that there has been a strong feeling expressed against the introduction of convicts in any other part of that great continent, except Western Australia?

Yes, I think there has.

136. And is there not some jealousy existing in New South Wales to the introduction of convicts even into Western Australia, great as the distance is?

I believe that such opinions have been broached in New South Wales; but we feel at the same time, that we have no voice in the matter, as regards Western Australia. I dare say that if the feeling of the colonists were taken upon that point, they would be very glad to get rid of the convicts in Western Australia. In saying that, I am talking of the colonists generally, and not giving my own opinion.

137. Therefore you would be of opinion that if any suggestion has been made that convicts might be introduced within four or five or six hundred miles of

of the existing settlements, there would be the greatest objection to any such proceeding on the part of the mother country?

I think there would; I think if the colonists were consulted upon that point, they would decide against the proposed settlement.

138. *Chairman.*] And you think there are no modifications of the principles upon which such convicts could be introduced into the colony that would mitigate that feeling?

I do not think so; I think the colonists of Australia generally would feel much happier if there were no convicts at all on the continent of New Holland.

139. Duke of *Newcastle.*] From your knowledge of the colonists, would you say that it is entirely a mistake to suppose that their fear is of the escape of the convicts into their country, but that their fear is that the convicts, when emancipated, would flow into their country, as of course they would have a perfect right to do, and thereby, in their opinion, taint the society in the colony?

I think that is the reason; they have no bodily fear of the convicts; it is the convict taint that they dislike; they fancy that the colony would become more respectable by having no convicts in it.

The Witness is directed to withdraw.

CAPTAIN CHARLES FITZGERALD, R. N., is called in, and examined as follows:



140. *Chairman.*] YOU have been lately Governor of Western Australia?

I have.

141. What number of years have you been there?

Seven years, within a few days.

142. During that time you have witnessed the introduction of convict labour into that colony?

Yes, during five years of that period. Convicts came out first in 1850.

143. Can you state what was the original population in the colony when you arrived there?

Four thousand six hundred white population when I arrived.

144. Has that white population increased?

Yes, it averaged about 12,000 when I left.

145. The addition consisting of free emigrants?

Free emigrants, and prisoners discharged on tickets of leave and condiional pardons.

146. Is the portion of that augmentation, arising from convicts discharged under various circumstances, about 5,000?

No, not so many. I think that only 3,700 convicts had arrived in the colony at the time of my leaving, altogether. I am speaking of course in round numbers. I do not confine myself to 10 or 20.

147. Earl of *Chichester.*] Had a large number of them disappeared from the colony?

A great number of the conditional pardon men did go to Melbourne till they passed such restrictive laws there, that they were put in gaol the moment they arrived, and the captain of the ship was fined 100 *l.*; otherwise, I believe, that from the time of the discovery of the gold fields not one conditional pardon man would have remained in Western Australia. They thought nothing of walking 270 miles from the seat of the head Government to King George's Sound to take shipping.

148. Earl *Stanhope.*] In the evidence which the Assistant Under-Secretary of State for the Colonies, Mr. Elliot, gave before the Committee of the House of Commons, he was asked this question: "Generally speaking, what has been

*Captain C. FitzGerald, R. N.*

17th June 1856.

the conduct of the convicts sent to Western Australia?" Mr. Elliot answers, "Their conduct has in the main been unexceptionable." How far are you prepared to concur in that description?

I fully concur in it. Looking at the class of men we had to deal with, their conduct has been much better than one could possibly have expected, under the system of management we adopted with regard to them; we had of course crime occasionally committed; but, generally speaking, the feeling of the community at large was very favourable as to their general conduct.

149. *Chairman.*] Will you describe the system that you pursued with regard to them, beginning with the first landing?

The system was a very humane and considerate one; it was principally a system of moral force; we excluded personal chastisement and corporal punishment as much as possible, though we were obliged to have recourse to it occasionally, in cases of turbulence and assault.

150. Were the convicts kept together on public works, or dispersed through the colony?

The ticket-of-leave men were dispersed throughout the rural districts and depôts, with the view to facilitating their employment. At Freemantle the prisoners were first of all employed in making the pensioners' barracks, &c. &c., and their own prison for their safe custody. When they first landed we had not made any preparation for them under orders. There were 75 in number. We immediately rented a large wool shed, and converted it into a prison. When I left, two-thirds of the prison was finished, and occupied by 600 of them. There nearly would be accommodation for about 1,000 when finished. The instruction of Earl Grey was, that after their own prison was completed, their labour wasto be devoted to developing the resources of the colony, and they were so employed. The ticket-of-leave men that were discharged from prison on tickets of leave, and those sent directly from England with tickets of leave, were immediately despatched to a new district, to be there employed in making roads, and to be in close proximity to settlers who might want their labour.

151. Were they employed on wages?

On wages from the free settlers, and on wages from the Government. The amount of wages we first gave them was rather large. Earl Grey's instructions were that they were to be given a rate of wages below the current rate, so as to hold out no inducement to them to remain on the hands of the Government; but we found there were so many little comforts attached to being in the depôt as compared with being scattered over the country in remote districts, with very indifferent sleeping accommodation, and no medical attendance, that I was obliged to give an order that they should not be given more than 4*d.* a day. The Comptroller-general and I differed upon this point. I reasoned with him that they were placed in a better situation than the free emigrants, inasmuch as they had rations and medical attendance, in addition to the 4*d.* a day. The Comptroller's argument against that was, that those men had to repay the expense of their passage, in certain proportions; which is very true; they had to pay 7*l.* 10*s.* out of their wages, and that justified the ticket-of-leave man in demanding higher wages, so that, ultimately, the expense of the passage fell upon the settlers; because the man said, "I cannot take less than 10*l.* or 12*l.* a year, inasmuch as I have to pay 5*l.* this year for my passage."

152. Earl *Stanhope.*] The convicts, in some cases, were in the employment of private settlers?

Yes.

153. In those cases, were the parties bound to each other for any fixed term?

The instructions from home were not to send them into private service under a year; but we found that would not work, for no settler would take them under such an obligation. Therefore, in our anxiety to save Her Majesty's Government the expense of maintaining those men, we let them go for such terms as the parties agreed upon, never less than a month.

154. The instructions from home were not to send them out for less than a year's employment?

Yes; but that was found impossible. No man would bind himself to take a convict for a year without knowing anything about him.

155. Then

155. Then either party, either the employer or the employed, was entitled to close the service at a month's notice?

Not the ticket-of-leave man, unless he could show some mal-treatment, because otherwise he would often return to the depôt without any assignable cause, and become an expense to the Government.

156. Were they at liberty to choose their own master?

Yes, if they wished it; but whenever they refused a reasonable rate of wages, their going was insisted upon.

157. Earl *Stanhope.*] Who judged of those causes of complaint?

I judged of them. They were brought before the Colonial Secretary, and he forwarded them to me; and I caused an inquiry to be made into the facts of the case; and if it appeared that the man had refused, for instance, 1 *l.* a month, or 2 *l.* a month wages, I insisted upon his going. Instances have been known of their refusing even 2 *l.* a month wages. Skilful mechanics have been known to earn 3 *s.* or 4 *s.* a day.

158. *Chairman.*] Then the whole amount of direct contribution to the labour of the colony, which this system of transportation has furnished, is about 1,000 who have gone into free service?

Yes; I think there were about 1,600 altogether on ticket of leave when I left the colony, and 1,000, or 1,100, of those were in positive employment, costing the Government nothing. There was always a kind of staff in every depôt; such as orderlies, cleansers and fire-wood cutters, &c. &c., leaving about 300 or 400 employed in positive labour, on behalf of the Government, making roads and bridges.

159. Were they kept on the hands of the Government because there was not sufficient private demand for them?

Entirely.

160. Then, at present, is the supply of labour beyond the demand?

Yes, with the number of free emigrants sent out at the same time.

161. Earl *Stanhope.*] If you had been constructing a public work with their labour, would you have caused that work to be discontinued because private settlers applied to you for labour for their own purposes?

Certainly, as a matter of justice to the British Government, in order that those men should not be supported by the Home Government when private employment was offered for them.

162. Then what would have become of the public work?

It would be suspended; the public works were only in a state of infancy, comparatively, when I left. When steam communication was first determined to touch at King George's Sound, it was necessary to open a road from the seat of Government to King George's Sound; and I employed 150 men upon the work, and succeeded in making a carriage-road 270 miles in length, and bridged six rivers.

163. Is not a railway or tram-road in contemplation, from the interior, to a place upon the coast, in connexion with some mining operations?

From Port Gregory it would be very desirable; but I apprehend that the mining directors who have the charge of it have no money to make it; but if it fell into richer and other hands, which I understand is contemplated, that would be one of the first measures adopted, I have little doubt.

164. Convict labour would be serviceable in the construction of such a work?

I do not think I should have given them convict labour to make such a railway, unless they hired it; otherwise, every other private speculation would have an equal claim to similar assistance from the Government.

165. Lord *Colchester.*] Could you have made that road of 270 miles from King George's Sound, if you had not had the command of convict labour?

I do not think I could; although I began it with the aborigines, and a great many sailors who were deserting their ships, and who were sentenced for it, relying at the same time on a supply of convict labour, which was soon despatched to the work.

*Captain C. FitzGerald, R. N.*

17th June 1856.

166. Although there are more convicts in the colony than are required for the service of the free settlers, you consider them of advantage to the colony?
Of the greatest advantage. When I was there, if you had given me 4,000, I could have employed them in developing the resources of the colony. We had two ship loads of Irish convicts who came suddenly upon us, and we put them upon the roads without trouble, in the absence of other accommodation in the prisons.

167. *Chairman.*] Did free voluntary emigration follow the introduction of convict labour in Western Australia?
No; the emigrants came out by the aid of grants that were made by Parliament to this colony, in consideration of receiving convicts.

168. Besides those brought at the expense of the Government, did any free emigration spontaneously follow?
Very few indeed; there was no instance of a capitalist but two.

169. Then, even in spite of the advantage to the colony of opening the roads with convict labour, there was no sufficient inducement to emigration to come spontaneously?
I am afraid not; there was such a prejudice against the colony. I think it is not without inducements to free settlers; but the prejudice was so strong against it, that we had no instance of any men of capital coming but two.

170. When you speak of "prejudice," do you mean a prejudice arising from the supposed natural disadvantages of the colony, or from the circumstance of your having convict labour?
In the first instance, from its supposed natural disadvantages; and in the next instance, from its having been made a penal settlement; people not knowing how well the system was working, and how little the community feared any evil from the presence of convicts in the colony.

171. What are the natural resources of the colony of Western Australia if only a greater amount of population was introduced?
Agricultural produce to begin with; timber to any amount may be supplied. When I left there was a hope of a very large contract for eucalyptus or native mahogany; it never decays under water. I understood that the engineer in South Australia had said that he would not undertake the construction of a bridge across the Torrens unless he received Western Australian timber, and timber had been sent before I left to the amount of some 20,000*l.* for different purposes, so highly was it esteemed.

172. Earl *De Lawarr.*] It is the very first quality of timber?
The very first; we have driven piles which have been 20 years down, and even at the water line where it is most apt to go, they were as sound as when they were put down. Some came to the dock-yard at Woolwich, and the Surveyor of timber told me that they gave the best price for it next to English oak.

173. Earl *Stanhope.*] Do flocks thrive well with you?
Yes, particularly at Champion Bay; they quite double themselves in three years.

174. Is the wool of a very fine quality?
It is considered so, if they only take proper means for washing it and cleansing it.

175. Is it quite equal to that sent from other parts of Australia?
I think so. I have heard some say that it is finer than that at Melbourne, but I cannot speak to that myself.

176. Do herds thrive in that colony?
Yes, remarkably well. I left a herd on the River Irwin, which is not quite as far north as Champion Bay, about 50 miles on the southern side.

177. *Chairman.*] Where is Champion Bay?
About 250 miles north of Perth.

178. What are the extreme limits of the colony north and south?

I do not recollect at this moment: but I was told that I had the largest Government in the world except that of the Emperor of Russia. I know it was above 800 miles in extent, with a population scattered over 600, from Champion Bay to Cape Rich, south of King George's Sound. The population are scattered of course very thinly in various parts of this extent.

179. Earl *Stanhope.*] What do the metals in the mines consist of?
The Geraldine mine consisted of lead or galend.

180. Is that a very productive mine?
Productive to any amount they pleased if they had money to work it; they send about 200 tons of lead ore every year to Singapore.

181. How far is it from the nearest port at Champion Bay?
There is a small port north of Champion Bay, called Port Gregory; it is about 40 miles direct from the mine; the line runs through a very sandy line of country, and a very discouraging one, so far as making the road is concerned, therefore it would be a great advantage if there could be a tramway made; but the timber for the purpose must be brought from elsewhere, and from a considerable distance.

182. *Chairman.*] Have you seen a recent report from a geologist, giving a very discouraging picture of the agricultural capabilities of Western Australia?
The land is generally not considered equal to that in South Australia, nor equal to that in Melbourne; but we found that by cultivation it afforded us good crops of wheat and of barley and of oats, and potatoes we even exported to South Australia.

183. Lord *Colchester.*] You stated that two capitalists came out; did they meet with such success as would be likely to induce others to follow them?
Perhaps not; one was of a class very well adapted for the undertaking he had embarked in, Captain Sandford, an officer of the 43d regiment, who sold out, and got a tract of land; I think he must have spent 4,000 *l.* or 5,000 *l.* in various pursuits; he built a good house near Port Gregory, is very active and enterprising, and does not despair that he will get ultimately a very good return for his outlay; I gave him 150 acres of land near Port Gregory, and another 150 near the mine; upon the former he built his house.

184. Who was the other capitalist who settled in the country?
The other was a Mr. Fauntleroy; he brought out some 3,000 *l.* I think; he has not succeeded well as a farmer; he had been, I believe, in trade in London, and did not know much about farming; but I do not think that anything would induce him to return to England, or any one who has once been out there; people are all so charmed with the country, that all ranks are anxious to return, even after they have come home.

185. Earl *Stanhope.*] It is stated by Mr. Elliot, in his evidence before the Committee of the House of Commons, that probably some horses were among the exports from Western Australia; are horses exported from that colony?
A great number are sent to India. The horses of Western Australia are considered the best tempered; they have not the vice of buck-jumping to the same extent as others sent from the eastern Colonies; so it has been stated by a cavalry general in India of great experience in these matters.

186. Then the breeding of horses is now a productive occupation?
Yes; they are still laying themselves out for its extension. I have little doubt that before 50 years Western Australia will be an exporting country, not only of horses, but of many other valuable products. It produces now very good wine; I drank nearly as good wine of the Rhenish character as any I drank in Germany, from the estate of Mr. Robert Clifton.

187. In what year were the vineyards first planted?
Upon the first establishment of the colony; I have brought home a cask of this wine, for which I paid 10 *s.* a gallon for, which is considered a very high price; the ordinary price of the wine is about 5 *s.*

188. Has not an application been made from the inhabitants of Western

*Captain C. FitzGerald, R. N.*

17th June 1856.

Australia to the Government that an increased number of convicts might be sent to them?

I am not aware as to an increased number; but they were in a state of fear and dismay when Her Majesty's Government was supposed not to intend to send any more convicts there; and there were meetings held all over the colony; I believe that if the convicts had been withdrawn, the colony would have been left to a band of officials, and that every man would have gone to the gold fields.

189. Then I understand you to say that the sending out of convicts to Western Australia has worked well?

I think it has saved the colony; as there has not only been the additional labour, but of course there has been a greatly increased expenditure. The colony would be glad to see 10,000 sent out.

190. *Chairman.*] Do you think that 10,000 could be annually absorbed?

No; I should say that 300 could be absorbed annually, with 300 free emigrants that should also be sent to keep up the balance of free men. A large number of convicts could be beneficially employed on public works, and as they would cost very little more in that country than here, I should say that the colony could usefully take 1,000 a year. But it is better to have men whose sentences are not too long. Men who are transported for life, or for 15 years, are not necessarily always the worst men, but they have less hope, and less inducement to behave well than seven years' men have, who know that if they conduct themselves well, in a year and a half they may to all intents and purposes be free men.

191. I presume that if the inhabitants of Western Australia go on increasing as they have done, whether from free emigration or from the settlement of former convicts, the power of absorption of convicts will increase year by year?

There is not a doubt of it.

192. Therefore, whatever number we might name now as a suitable number to be sent annually might be considerably increased, looking forward to five or ten years hence?

I should be disposed to double it in ten years; because the very convicts themselves are buying land, and becoming employers of labour. I know several Irish convicts who are now renting land.

193. Viscount *Dungannon.*] For what periods of transportation were they sent out?

They came out under no positive restriction. We complained of their not being sent upon the English system; many of them had served considerably more than the time required to give them tickets of leave; that has been qualified, and they are placed now in Irish prisons, under the same rules as in England. But many of these people had been for two or three years in prison at Spike Island. Many were of a very different class from English prisoners, not so hardened, and had merely stolen some trifling thing during the famine.

194. Are there many English prisoners who have become renters of land?

I have in view some six or eight or ten.

195. Earl *De Lawarr.*] I understand you to say that the same indisposition to receive convicts does not exist in Western Australia which exists in other parts of Australia?

No; quite the contrary, more particularly while the expenditure it occasions lasts. There was a great idea of its being withdrawn, and it affected the colony greatly; the year before last there was a complete stand-still for a time.

196. Viscount *Dungannon.*] You say that if you had not had an abundant supply of convict labour, you could not have accomplished the completion of that 270 miles of road in the time that you did?

I do not know that I could have attempted it; as it was, I attempted it against the advice of most in the colony.

197. And you finished it in about three years?

In two years. To give you an idea of the difficulty of the work, I may mention

tion that we had to cart provisions 120 miles to supply the men with rations on the road during a certain part of the work.

198. How were the bridges over the rivers constructed?
Entirely of timber.

199. No stone?
No stone. We have no stone bridge in the colony.

200. Were the foundations and all of timber?
Of timber.

201. Was the timber the native mahogany?
Not all; in some instances we used the native mahogany; but we used the blue gum in some instances, when the former was very distant; and it is a question whether that will not prove equal to the other.

202. Earl *De Lawarr.*] You used timber as being cheaper?
Entirely so.

203. Not on account of any deficiency of stone?
No; but in some instances it was far to carry the stone, and the quarrying would be expensive.

204. Duke of *Newcastle.*] When you say that you anticipate that in 10 years the colony may be able to absorb a greater number of convicts than it does now, do not you think that you may also anticipate that at the expiration of 10 years the colony may become, like other colonies in Australia, averse to receiving any convicts at all?
I apprehend that if the colonists got very rich, they would, especially if they could, establish a large export trade, be independent of convict expenditure, and in all probability object to receive them.

205. Have there not been some symptoms that the period when that feeling may arise may not be very far distant?
No, I cannot answer that in the affirmative; I have heard of one or two men who object to convicts, but at the same time those men derive the advantage of the expenditure of the public monies as well as other people; but although they refused to sign the petition for the first coming of the convicts, I cannot believe that those very men would not be very sorry to see them leave, seeing the system works so much better than they expected, and that they are not only free from danger, but free from pollution in any way. The convicts are marrying; the emigrant girls do not object to marry them.

206. From your experience of the colony since the first introduction of convicts into it, do not you think that you must warn us that the time cannot be very far distant when we shall be unable to send any more convicts to that colony without violating the feelings of those colonists, as has been the case in New South Wales and in Tasmania successively?
I will not undertake to say that in 50 years that may not be the case; but certainly I should say not for the next 20 years; I believe they will gladly receive them, as it is not probable they will be in such a state of prosperity as to be able to dispense with the advantages of the present system before that period.

207. *Chairman.*] What attraction do you apprehend that there will be in Western Australia which will determine any considerable amount of emigration to that colony, when parties would have so near them the attraction of the gold field, and of the more flourishing colonies?
Supposing that the gold fields had not been increased in their productiveness (as it appears by the papers that they have); I know that there were 400 or more who have gone to the gold fields, and who would gladly have come back to Western Australia had they the means of paying their passage. The advantage that it holds out to industrious men is either to rent or to buy land, and become agriculturists or farmers, and open various trades; in fact, the same advantage that is held out in other colonies, particularly as now there will be a great demand for agricultural and other produce in the other colonies, in consequence of the increase of the population.

208. You consider that Western Australia is very much fitted for the growth of agricultural produce?
I would

*Captain C. FitzGerald, R. N.*

17th June 1856.

I would say much fitted, for we find that the land always yields well when the commonest appliances of farming are applied to it, though the soil is not so uniformly good as in South Australia or Melbourne.

209. Has it grown more than enough to supply the wants of the population?

No; this year is the first year. I think that it will be self-sustaining; because, till the arrival of the convicts, the farmers did not know what to do with their produce; the colonists have now a market, and the convict expenditure has given them more capital to work the land, which they were too poor to do before. The farming interest is decidedly the most flourishing interest in the colony; there is nothing which a farmer grows which he cannot sell immediately, and sell well. When I first went to Western Australia, I have known sheep sell for 3 *s.* 6 *d.* a head all round, and we were just beginning to boil down. before the colony began to receive convicts: the settlers had determined upon not increasing their flocks. The moment it was made a penal settlement, I will give you one instance just to show the effect it produced: four or five gentlemen joined and subscribed, investing their money, about 200 *l.* a-piece, making 1,000 *l.* altogether, and formed an establishment upon the Irwin River. They took a lease of 80,000 acres of land from the Government; and when I went to visit that station, two years afterwards, there were 1,000 head of cattle grazing upon that river; and I may say that I saw them weighing from eight to nine cwt. each. I said to the gentleman who accompanied me: "These are all fit for the market." He said, "No, not at all; three or four months more will make some of them 1,000 lbs. weight, and they will sell for 16 *l.* each."

210. All that was owing to the stimulus given to production by the introduction of convicts into the colony?

Yes, knowing that they would have a market from the Government for the convict population; but that gentleman said, that the stock was increasing so much beyond the demand, that meat would be down to 4 *d.* a pound, in place of 8 *d.*, which we were then paying. I never saw finer cattle. They had no difficulty to contend with except from the natives occasionally spearing the cattle. The pastures were magnificent; and in Champion Bay, when I went up there, two years after my first visit, when the free settlers had gone there, I was perfectly surprised at the different flavour of the mutton, as compared with that fed on the worn-out pastures.

211. Lord *Colchester.*] Has not some coal been discovered upon the River Irwin?

There was some coal discovered, it was anthracite coal; it was just enough to entitle the parties to a reward for the discovery; they are now sinking a shaft at Perth.

212. Earl *De Lawarr.*] Was the better flavour of the meat owing to the improvement of the pastures?

To a better kind of pasture.

213. *Chairman.*] You consider that about 300 convicts might be absorbed annually in the population as it now stands, but that a larger number could be employed advantageously by the Government in developing the resources of the colony itself?

Yes; I would say 300, on the supposition that 300 free emigrants went out. That is giving to the colony the power of absorbing 600 adults in a year. I think my last private communications tell me that there was scarcely a ticket-of-leave man in the hands of the Government.

214. Viscount *Dungannon.*] Are the female emigrants numerous?

We have had several shipments of them; one ship brought out 150, and another 120. I believe some emigrants, male and female, went out the other day.

215. You say that the female emigrants have no objection to marrying those convicts?

No; even colonial girls with some means have married ticket-of-leave men and conditional pardon men.

216. *Chairman.*] You have not had female convicts in Western Australia?

No; it was agitated; under instructions I received, I laid it before the public in

in the colony; and there were a great many for it; but the majority were decidedly opposed to it. There is a great disparity of the sexes there.

217. Viscount *Dungannon.*] The female emigrants are by no means so numerous as the male emigrants?

As to the emigrants now going out, they may be about equal; but the disparity was very great before, and the male convicts increased that disparity; I believe they want female servants very much there now, as most of them marry.

218. Duke of *Newcastle.*] Have any female convicts been sent there during the last five years?

No; the colonists object to it.

219. Viscount *Dungannon.*] Do the female emigrants generally marry soon after they arrive?

Yes; and that makes another opening for the same number; and those very women employ female servants. The female emigrants had not been six months in private service, before we heard that the greater part of them were married.

220. Earl *De Lawarr.*] Is there likely to be a large emigration to Western Australia this year?

I have not heard the intention of Her Majesty's Government. I heard the other day that a ship was going out with 90; when I left the colony we had 40 emigrants upon our hands.

221. Is that the only ship that has left in the present year, 1856?

Yes.

222. *Chairman.*] You have stated that at present you only receive the worst class of convicts?

It appears so.

223. Is that felt as a grievance by the colonists?

No; but they think it will not work quite so smoothly; but in talking upon the subject with Colonel Jebb, he says that the having a long sentence is not always a proof of greater turpitude than the having a short sentence.

224. It has not been a subject of complaint on the part of the colonists?

No; it had only just been decided upon when I was leaving. I recollect complaining of the class of men sent out in the first instance. They promised us that in the absence of any secure prison we should have a select class of prisoners; but when I looked over the list, and saw that several of them had been six times re-convicted, I complained to Earl Grey about it; and he referred to Colonel Jebb, who stated that they were the best he could send.

225. Viscount *Dungannon.*] Have there been many instances in which you have been obliged to punish severely?

I think very few; I have known as great a number in one of Her Majesty's ships in days of old; look at the number of the ships' crews as compared with the number of convicts.

226. *Chairman.*] I suppose you have regular returns of the punishments?

Yes; I have not them with me, but the Comptroller-general has regular returns in the archives of his office.

227. Have you the means of furnishing the results of the records of punishment?

No, I do not think I have. There were only two cases of violence and taking life during the time that I was there. We executed two men, one man for killing a woman in a fit of jealousy, and another man for murdering a Chinaman.

228. Does anything else occur to you which you desire to state to the Committee upon this subject?

I do not know that anything else presents itself to my mind.

229. What is the present state of the question with respect to steam communication to Western Australia?

I understand that there are one or two tenders submitted to Her Majesty's Government. Your Lordships are aware that Melbourne has voted 75,000 *l.* to carry

*Captain C. FitzGerald, R. N.*

17th June 1856.

carry the mail, and I apprehend that the utmost expense would be 120,000 *l.* If that plan is adopted, the Melbourne people will not let the mail be detained by touching at the Sound; but I understand that the Government would give the preference to a contract for touching at the Sound. Sir William Denison submitted a scheme to know what proportion each colony would give, and suggesting that they should give in proportion to the number of letters, and that if we made up 60,000 *l.* a year among all the Australian Colonies, and the Home Government gave 40,000 *l.*, the thing would be easily effected. But, as before stated, Melbourne has at once voted 75,000 *l.* towards it, and in that case it will most probably go direct to Melbourne. The other plan was to come from Ceylon, and to touch at an island called Diego Garcia, and then to touch at the Sound, and for each of the Eastern Colonies to send for their letters, and to return again. It will be a sad thing for Western Australia if they are thrown out of that communication by steam; they attach great importance to it, of course; in that case the road which has been constructed with so much labour and expense might almost as well not have been made.

230. Have there been any expeditions from Western Australia to the South Coast of Australia?

No; we sent out exploring expeditions; I think I sent out as many as five while I was there, one the year before I left, which returned, failing in the very object for which it went to look for, good land. The horses all died, except two, out of 27, from want of water, and the men nearly perished. They went up to the north; they thought to take a circular route to the River Gascoigne, in Sharks' Bay, where it was hoped they might find good land, from Sir George Grey's account.

231. Lord *Wharncliffe.*] Have not exploring expeditions been made from Adelaide to George's Sound?

Only one, and all the party perished, except the leader, Governor Eyre, and a black man. When we took possession of Sharks' Bay, we found guano to some extent there, and sent a military force up to prevent parties coming and taking it without paying the Customs; and when the guano was exhausted, we withdrew the party again. They lived on Dirk Hartig's Island for six months, under the command of Lieutenant Elliott, a most zealous officer of the 99th regiment.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Thursday next, One o'clock.

# *Die Jovis*, 19° *Junii* 1856.

LORDS PRESENT:

| | |
|---|---|
| Lord Privy Seal. | Viscount Dungannon. |
| Marquess of Salisbury. | Lord Colchester. |
| Earl Stanhope. | Lord Wharncliffe. |

THE LORD PRIVY SEAL in the Chair.

Evidence on the Act 16 & 17 Vict. c. 99, on Transportation.

*Captain John Lort Stokes, R.N.*

19th June 1856.

CAPTAIN JOHN LORT STOKES, R.N., is called in, and examined as follows:

232. Earl *Stanhope.*] YOU have served professionally on the coast of Australia for some years?
The chief part of my servitude has been on the coasts of Australasia; I was there between 1836 and 1851.

233. You have surveyed the northern coast as well as the other coasts of Australia?
The northern coast particularly.

234. Were you on a survey?
Yes; I commanded the "Beagle," surveying ship there.

235. Are you acquainted with the district known by the name of Cape York?
Yes.

236. Did that district appear to you to afford advantages for a new settlement?
No, not in that particular spot; there is not body enough of land there; but further down at the head of the Gulf of Carpentaria there is a very eligible spot.

237. Will you be good enough to name it?
Near the Albert River.

238. Did any other point of the coast appear to you to be eligible?
Nothing so eligible as that.

239. Supposing, however, it was desired to have a settlement at a greater distance from Moreton Bay than Albert River, should you then approve of a settlement on Victoria River?
No, the heat would be too great there.

240. Or further to the westward are there any eligible parts for a settlement?
Not any that I visited myself.

241. Would not the same objection as to the temperature apply to Albert River as to Victoria?
No. It is a remarkable fact, that though it is nearly in the same latitude, there is a great difference in the temperature.

242. Have you resided at the Albert River for any length of time, so as to be able to form an opinion upon that point?
I was there in the months of July and August.

*Captain John Lort Stokes, R. N.*

19th June 1856.

243. The winter months?
Yes; and Captain Flinders was there in the summer months.

244. Lord *Colchester.*] Is there a regular monsoon there?
The north-west monsoon blowing over the high land, loses heat and moisture; and the same occurs with the easterly winds. When Captain Flinders was there, from November to March, the temperature was from 81° to 90° in those months; and in July and August, when I was there, it was between 50° and 80°.

245. Earl *Stanhope.*] The same advantage is not possessed by Victoria?
No, neither is the country so good.

246. You consider the soil at Albert River to be very good?
Yes, I brought a specimen of it home; and Sir William Hooker examined it, and said it was of a fine quality.

247. Lord *Colchester.*] Have you examined the country northward of Albert River towards Cape York?
Not inland further than the River Van Diemen; but I have coasted along it from Cape York.

248. You were not so far north as the mouth of the River Mitchell?
Not on shore.

249. Earl *Stanhope.*] To what extent does the northern coast of Australia appear to be frequented by the aborigines?
It is frequented every where, in every part of the coast. There is no part of Australia that I visited that I did not find frequented by natives.

250. Therefore any new settlement would be exposed to the same obstruction on the part of the aborigines?
Of course you would have to meet with the natives in every part of Australia, in all new settlements.

251. Lord *Colchester.*] If an establishment was formed for a numerous Government colony, would the natives be in sufficient numbers to occasion any serious inconvenience or danger?
There would be nothing to be apprehended from them at all; it is only small travelling parties that they attack.

252. Earl *Stanhope.*] Did that district appear to be well wooded?
It is openly wooded; that is, there is wood in clumps.

253. Did the wood appear to be such as might be serviceable for timber?
Yes, for any purposes; the woods of the country are chiefly the eucalyptus, the red and white gum.

254. Viscount *Dungannon.*] Is that a kind of mahogany?
There is not any mahogany up there that I noticed.

255. What is the character of that red and white gum wood?
The red gum is a heavy wood, the white is not so; neither of them are good for spars for a vessel; but for building purposes they are well fitted.

256. Are they fit for building houses, and that sort of thing?
Yes, quite.

257. Lord *Colchester.*] Have you examined perfectly the eastern coast, from Cape York southward?
No, I have not examined that; but Mr. Kennedy travelled along the whole of that country, and lost his life close to Cape York.

258. Earl *Stanhope.*] Is the navigation of the sea along the northern coast free from obstacles; first, as to the Gulf of Carpentaria?
Yes, it is perfectly free there; there is no shoal or bank there.

259. Then, as to the coast along the west of the Gulf of Carpentaria?
That is all a very safe coast; the dangers are marked in the charts; but the Gulf of Carpentaria is particularly free from dangers.

260. Would a station on Albert River appear to be, so far as you can judge, advantageous for commercial purposes?
Particularly so.

261. What are the commercial points with which communication might be most favourably had?
The trade with the Arrou Islands, lying to the north of the Gulf of Carpentaria, close to New Guinea.

262. Have you had occasion to observe the influence of transportation in New South Wales?
Yes, I have, in various parts.

263. What is the general impression you have derived upon that subject?
In the formation of all new settlements, I think that kind of labour highly desirable.

264. Viscount *Dungannon.*] And you think it would be acceptable to settlers in new colonies?
Certainly, in Australia.

265. Earl *Stanhope.*] Do you ascribe a great part of the growth and development of our colonies in Australia to the advantages of convict labour?
Yes, in a great measure.

266. Lord *Wharncliffe.*] Did you not remark, in Van Diemen's Land particularly, that the roads and bridges were much better there than in any other part of the colonies?
Precisely; the convicts open the country out.

267. Lord *Colchester.*] Those were constructed by convict labour?
Yes, entirely.

268. Viscount *Dungannon.*] Then you think that in any new settlement, without the aid of convict labour, it would be almost impossible to accomplish those works which would be necessary to render that settlement beneficial to those who went out there, such as roads and bridges and other essential things?
I do; the country is entirely shut up to the settlers without those works; that is quite the case now at Otago, in New Zealand.

269. Earl *Stanhope.*] Considering the objections now entertained to convict labour along the whole of the eastern coast of Australia, are you of opinion that it would be desirable to form a new settlement for the reception of convicts?
Most certainly. There is a great extent of fine country in Australia, in the head of the Gulf of Carpentaria; settlers are already approaching from Moreton Bay, and they are now about 500 miles from it; but it will take them some time before they reach there, and then you would have a town ready to receive them.

270. You have had great opportunities in Australia of observing the progress and state of convict discipline?
I have had some during the years I have been there; I saw the old assignment system and the probation system.

271. In the event of a new settlement being formed for the reception of convicts, what would you consider to be eligible, the first step that ought to be taken with respect to convict labour; how would you apply it?
In preparing land for sale, and in public works generally.

272. What do you consider might follow that first stage?
The ticket-of-leave or dispersion system would follow wherever circumstances warranted it; and the want of labour in new settlements would offer the greatest facilities for such an encouragement to good conduct.

273. Has any plan occurred to you with respect to one great evil which has been found to attend the removal of convicts to a new settlement, the disproportion of the sexes?
You must send a certain quantity of females with the males.

274. Have you considered, in detail, by what means that object could be effected?
No, I have not gone into that matter.

 275. Do

*Captain John Lort Stokes, R. N.*

19th June 1856.

275. Do I rightly understand you to say, that the Albert River is the part of the northern coast in which you think a new settlement would be most eligible?
That is my decided opinion.

276. Can you state what the impression of Captain Flinders was as to the temperature of that district in the summer months?
He said that the weather was warm, but not oppressive, owing to land and sea breezes.

277. *Chairman.*] Are you able to state distinctly the temperature that Captain Flinders found there?
From 82° to 87°, during the summer months.

278. Earl *Stanhope.*] Can you state any other testimony as to the goodness of the climate?
Dr. Leichardt says: "To show how congenial the climate is to the human constitution, without flour or salt, and miserably clothed, we are all in health." At another time he says: "In fact we have found the air so bracing that we are all in health;" and the fertility of the district enabled Dr. Leichardt to say that cattle driven by easy stages would fatten on the road.

279. What was the result of your own exploration as to the character of the soil?
I discovered a large extent of fine country on the upper part of the Albert, with soil of great depth, a sample of which was declared by Sir William Hooker to be of fine quality. The name of "The Plains of Promise," was given to this region.

280. That is in the depth of the bight?
Yes. The whole country is well watered, numerous rivers having been crossed by Dr. Leichardt in addition to those which I discovered and surveyed. Safe anchorage may be had in any part of the head of the gulf; an excellent harbour lies off the mouth of the Albert River; the river is navigable, and both it and the harbour have been surveyed. I conceive that Sweers's Island would be well adapted for a preliminary depôt, and a permanent site on the main land might be selected afterwards.

281. Viscount *Dungannon.*] What distance is that from the mainland?
Fifteen miles from the mainland; here is my survey of the gulf (*producing the same*).

282. Earl *Stanhope.*] What is the distance of that spot across the country from Moreton Bay?
Nearly 1,000 miles. I am enabled to say, from personal observation, that there is no part of Australia with greater inducements for settlement than the southern shore of the Gulf of Carpentaria.

283. Lord *Colchester.*] Is Sweers's Island of sufficient size for the formation of a penal settlement?
Certainly, for a small depôt.

284. Can you state about the extent of it?
About four miles and a half or five miles.

285. In the neighbourhood of Sweers's Island there is a large island called Bentinck Island: do you know Bentinck Island?
Yes.

286. Would that be an island suitable for a settlement?
Either of those islands would be suitable; but I should prefer the small one for the commencement.

287. There is a still larger island in the neighbourhood, called Mornington Island; would that be suitable?
I am afraid they would get over to the main too easily from that.

288. How far is the larger island from the mainland?
Mornington Island is about eleven miles from the inner point.

289. Sweers's Island is the one that is the most distant?
Yes.

290. Is there plenty of fresh water on those islands?
On Sweers's Island I found plenty of fresh water by digging for it.

291. *Chairman.*] For what special purpose, with regard to settlement, do you recommend one of those islands to be first adopted?
I consider that would be the port of the settlement.

292. Earl *Stanhope.*] Why do you prefer a settlement upon a small island to one upon the mainland, since you contemplate going to the mainland ultimately?
As a preliminary depôt during the selection of a site on the main.

293. What is the advantage of it?
You have an excellent harbour, and there is not another for large ships so near.

294. Then you consider that it would be, in fact, the harbour of the mainland settlement?
Precisely.

295. And that there is no part on the mainland itself where you would have the same advantages in that respect?
No, from the water being shoal there could be no harbour thereabouts.

296. Viscount *Dungannon.*] You could construct no harbour upon the mainland?
No, I think not, at present, for large ships.

297. Marquess of *Salisbury.*] What is the objection to Mornington Island; which is the larger island?
There is, doubtless, more space upon that island, but it is connected by other islands with the mainland.

298. *Chairman.*] Do you conceive that the mouth of the Albert River is itself the point of the mainland which would be the head quarters of the future settlement?
The settlement should be about 30 miles up the river.

299. Do you imagine that the vessels loading at Sweers's Island would be of that kind that they would get up to a place 30 miles up the Albert River?
As there is only 11 feet on the bar of the Albert River, large vessels cannot get up there.

300. Would vessels drawing that be able to get up to a place 30 miles up the river?
Yes, they would get nearly 30 miles up the river.

301. Has that situation 30 miles up the Albert River in itself great resources, such as would be likely hereafter to make it the nucleus of a great settlement?
It is open grassy country, lightly timbered; Dr. Leichardt speaks most highly of it.

302. Would the sort of population that you would expect there be principally squatters with flocks of sheep?
In five or six years the squatters will be there from Moreton Bay, and the immediate settlers would certainly be traders, as well as agriculturists.

303. Lord *Wharncliffe.*] Did not you find that the wool was a great deal worse as you got further north?
No; the squatters tell me that it is a great deal finer, contrary to what they expected.

304. *Chairman.*] It is usually the case, that as the climate gets hotter, the wool becomes hair, and loses its fine staple?
It is generally thought so.

305. Marquess of *Salisbury.*] What is the nearest settlement to Sweers's Island?
The squatters have extended up to Peak Range; they are now about 500 miles from the head of the Gulf of Carpentaria.

*Captain John Lort Stokes, R. N.*

19th June 1856.

306. Lord *Colchester.*] Supposing there were objections to Sweers's Island, can you state, in point of climate, what is the climate about the fifteenth parallel of latitude, both on the side of Carpentaria and on the eastern side of Australia, towards the Great Barrier Reef?

It is cooler in the head of the gulf in the same latitude than it is upon the sea-coast, and I believe the same applies to the fifteenth parallel.

307. You consider that the shore of the Gulf of Carpentaria would be very preferable, and that the climate would not differ much from that of Sweers's Island?

Yes.

308. Though you do not consider that the neighbourhood of Cape York is desirable for a colony, do you think it would be advantageous to have a post there, with reference to the commerce which is likely to pass by there?

A station for coaling vessels and pilots.

309. Viscount *Dungannon.*] What class of settlers do you apprehend would come into this country at Albert River; would they be persons with little or no capital, or persons who had already accumulated some extent of capital; would there be temptation enough for persons with capital?

When they formed the settlement at Port Essington every kind of settler wished to go there; but there was no encouragement given them, otherwise that place would have been established, and it would have been a large place now.

310. Do you think that in the present state of things encouragement would be given now?

That would depend upon what the Government chose to do; but it would be highly advantageous that every encouragement should be given to settlers to go there. I should put a very small price upon the land, in order to encourage them to go there, and I believe that many would go immediately.

311. You think that the advantage of having convict labour would induce many to go who otherwise would probably not do so?

I think so.

312. In fact, it would be impossible for them to carry out many very necessary works without convict labour?

They could not do it.

313. Marquess of *Salisbury.*] You stated that an establishment would be necessary at Cape York for the purpose of coaling the vessels; to what extent do you think that that establishment could be made a receptacle for convicts?

When I answered that question before, I did not contemplate the sending of any convicts up there.

314. Do you think that any would be sent there?

They would have so many opportunities of getting away from there across the islands, and among the natives, that there would be an objection to sending any convicts there, except those whose behaviour enabled you to place trust in them.

315. To what place would they get away?

They would make their escape to the neighbouring islands.

316. Lord *Colchester.*] Would it be advantageous to have a body of convicts there, for the sake of their labour, if they were in the first instance employed on the public works, as they are now at Portland and Bermuda, and then gradually released, according to their good conduct?

Yes; that would answer exceedingly well.

317. *Chairman.*] Are there public works which it would be very desirable for the public service generally to establish at Cape York?

Yes, decidedly, of a limited extent.

318. What works are there which it is desirable to carry out there?

First, you would prepare for a coal depôt, wharfs and piers, and stores.

319. Would there be anything in the nature of a harbour to make?
No; the harbour is made; there is very little to be done to that.

320. Would a lighthouse be required?
They would have the setting up of a lighthouse: they would not build a lighthouse, because an iron one would be sent out from England, but they might be employed in putting it together.

321. Do you think that there would be works enough to employ a few hundred convicts for some years advantageously?
Hardly so many as that, I should say.

322. Marquess of *Salisbury*.] Is the land in the neighbourhood of Cape York capable of cultivation?
I should say not; it is partly a sandy tongue of land.

323. Is the climate so unhealthy as to render it inexpedient to have a settlement there?
It is much warmer than in the Gulf of Carpentaria, but it is not at all unhealthy; more so than Port Essington.

324. Lord *Wharncliffe*.] Would not the sun be too hot for Europeans to work out in it during the day?
At Port Essington they only laboured so many hours of the day, morning and evening. In the Gulf of Carpentaria it would not, I think, be at all too warm for out-of-door labour.

325. Marquess of *Salisbury*.] Is there any native population at Cape York?
Yes; there are natives all over the coast.

326. What class of population?
The natives in the north and south parts vary; they are tall, thin, and wiry-looking, as all the aborigines are.

327. Are they ferocious and savage tribes?
They are all ferocious. All wild tribes, if they have an opportunity, will invariably attack you if their numbers are sufficiently great. I have been dangerously and treacherously speared by them at the Victoria River.

328. Are they mostly along the coast?
They come from the interior to the coast at certain seasons of the year for change of diet.

329. *Chairman*.] Is there any other suggestion which you wish to make to the Committee?
Nothing beyond the great importance of having a settlement in the Gulf of Carpentaria.

330. Lord *Colchester*.] Is there any point upon the western coast which you could recommend for a settlement?
Not any.

331. Viscount *Dungannon*.] Do you consider the Gulf of Carpentaria a perfectly safe navigation?
Perfectly safe.

332. Lord *Wharncliffe*.] Is the navigation equally good between the north-western part and Timor—the approach from the westward?
Yes, it is quite open sailing.

333. Lord *Colchester*.] How long is it since you last returned from Australia?
In 1851.

334. Viscount *Dungannon*.] You were out there about 13 years?
I first visited Australia in 1836; I went out there again in 1837, and stayed there till 1842; then I went there again in the beginning of 1848, and I was there and in New Zealand till 1851.

335. Lord *Colchester*.] The only point which you would recommend for a new settlement is the head of the Gulf of Carpentaria?
Yes.

*Captain John Lort Stokes, R. N.*

19th June 1856.

336. You have seen enough of that to enable you to express an opinion that it would be very favourable for a settlement?

Certainly; I am satified upon that subject: it is like Port Philip; Port Philip was the outlet on that part of the coast to the settlers in New South Wales; and so the Gulf of Carpentaria will be to the settlers northward of Moreton Bay.

The Witness is directed to withdraw.

*Lieut.-Col. William Caldwell.*

Lieutenant-Colonel WILLIAM CALDWELL is called in, and examined as follows:

337. *Chairman.*] YOU commanded a body of pensioners that went out to the Red River?

I did.

338. In what year was that?

I went out in June 1848 as Commandant of the pensioners, and Governor of the Red River settlement, and returned in October last year.

339. What number of men did you command?

In the first instance 56 men went out, and 20 men were sent out two years afterwards, in 1850.

340. You had thus an opportunity of seeing something of the country?

I have seen the country about the settlement, and also on my way to and from York Factory?

341. Will you describe the route you pursued up to the Red River settlement?

I went by a boat from York Factory to the Red River settlement.

342. In what year did you sail from England?

I sailed on the 13th of June, in a ship freighted by Government to take out pensioners, the "General Palmer," an old East Indiaman: we had a very protracted voyage; we arrived on the 13th of August.

343. How did you get back again?

I came back by the same route, in the Hudson's Bay Company's ship; we left on the 25th September, and arrived on the 25th of October last year.

344. Within what periods of the year is the passage accessible?

The vessel leaves this country in June, generally. The ship is gone now; they remain sometime at Stromness to take in men; generally, they take Orkney men. At present, they have some difficulty in getting Orkney men, and they are taking some Norwegians out there; they are found hardy, and well suited for that climate.

345. How many months is the passage open?

It is not open till the ship arrives there, about August; there is so much ice, that Hudson's Bay is not free from ice, to admit any vessel, till August.

346. How long is it open?

It is open from that time till the vessel leaves in September; it may be open till the fresh ice sets in.

347. Then, in fact, it is only open about a month?

About a month or six weeks. Towards September, the ice has generally taken its departure to the southward. There is a freer channel during September than any other time.

348. Viscount *Dungannon.*] How long does it continue free?

Till the winter sets in; about the month of October.

349. Then, throughout September and October, the channel is pretty free?

Yes; but cold weather may set in, and you may be ice-bound before November.

350. You could not answer for more than five to six weeks in the year certain?

Not more than that.

351. *Chairman.*]

351. *Chairman.*] Within that period you might send out as many ships as you pleased?

Yes. A strange circumstance took place last year. The Company's ship had left at the usual time, and there being more goods for the settlers than the Company were able to provide for in their own vessel, they hired a small schooner, and the schooner did not leave the river till sometime in the middle of July, and she arrived there before the Company's ship.

352. Will you state whether you found in that country any particular facilities for a penal settlement?

I should say not at all; not at that portion of the Hudson's Bay Company's territories.

353. The only other access to that country would be through Canada by a series of river communications?

There is a mode of getting there by Canada along the rivers; but the only means of being conveyed by that route is by canoes. I believe there is not sufficient water to proceed by boats. I think you would have to have canoes on that route.

354. Lord *Colchester.*] In point of fact, the route by York Factory is preferred to the route by Canada?

It is preferred; it is a very difficult place of access. Of course the Company's officers, having been so long accustomed to it, find their way there.

355. Viscount *Dungannon.*] You see no prospect, in those circumstances, of a penal settlement being established there with advantage?

I should think not; I should think there would be very great difficulty in getting there. I reached it in a vessel which had not a person on board that had ever been in that part of the world; I got there safe; but next year there was a vessel freighted, and she was lost.

356. What was the object of that body of men that you commanded going there?

The Government sent them out there. It originated with the demand of the Company to have protection, in place of the troops that were there; there was a garrison there when I went out; I relieved the garrison of the 6th regiment, and some artillery and engineers. The Company applied to the Government for some military force, and the Duke of Wellington, I believe, fixed upon the pensioners, provided the officer in command had the appointment of Governor of the colony.

357. *Chairman.*] Have you any acquaintance with any other part of the Hudson's Bay territories besides the Red River?

None.

The Witness is directed to withdraw.



JOHN RAE, Esquire, M.D., is called in, and examined as follows:

358. *Chairman.*] YOU are extensively acquainted with the Hudson's Bay settlement?

On the east of the Rocky Mountains only; I have no personal experience on the west side.

359. Is there any point that you are acquainted with in the Hudson's Bay territories that occurs to your mind as presenting advantages for a penal settlement, keeping in mind that for a penal settlement you require the means of safe custody, and of useful employment for the convicts while in the public custody, and of subsequent absorption in industrial employment by free settlers?

I am afraid that there is none that could combine all those together. I have come here quite unprepared, having been called upon because the director of the Company, who knows this country well, happens to be in Scotland; but I think that, as far as I know, there is no place that will afford all those

*John Rae, Esq., M. D.*

19th June 1856.

appliances; the climate, as far as health is concerned, would be satisfactory in many places: Church-hill, for instance, is a remarkably healthy place, but there, I think, the energies of the men could not be turned to any good account; there is no work which they could be employed on; the only thing that could be done would be white porpoise fishing, but that is always left to the natives with us; they are more able for it. As far as climate is concerned, that part might answer; but in all parts of the Bay near the coast the temperature is so much kept down by the ice constantly in the Bay, that we cannot grow, with certainty of ripening, even common barley in any place near the coast; and were you to go inland, the difficulties that exist are so great, that it would lead to very great expense. That is the result of my experience in that quarter.

360. Viscount *Dungannon.*] Is the country so formed that roads and bridges could be constructed?

Roads might be formed; but the rapids are so numerous in the rivers, that it would take great expense to deepen the rivers sufficiently for large craft. I may mention, as an instance of the difficulty and expense of carriage, that the Company pay to the settlers at the Red River, 16*s.* for every 90lbs. that they transport to the Red River from York Factory.

361. Are you acquainted with Vancouver's Island?

Not personally; I merely know it from communicating with others, as we are all glad to do; it is a fine climate; it is a climate fully equal to that of England, I think; they raise larger crops than in England; there is abundance of coal, abundance of wood, and fine fisheries.

362. Viscount *Dungannon.*] You have not visited it yourself?

No. I do not speak from personal experience. It lies between latitude 48 and 51 degrees. The climate very much corresponds to that of England: it is healthy, and you can grow almost all the produce that is to be got in England. There are some fine harbours, and some mineral productions. Queen Charlotte's Island is equally favourable, but it is inhabited by a very warlike tribe of Indians: it has never been settled even by the Company's people.

363. Earl *Stanhope.*] By whom is Vancouver's Island inhabited?

Its inhabitants are a tribe of Indians, who are rather warlike too. The northern is occupied by Indians, and the southern portion by the Hudson's Bay Company. They have a settlement there, and they have attempted to take out emigrants; but the attractions to the gold diggings in California have been so great, that the emigrants, at first, invariably removed to the gold diggings.

364. What route would there be to Vancouver's Island by land?

The common route, which the Company send their letters across, is from Canada, through the lakes, and up the Saskatchawan River, then across the Rocky Mountains, and then descend the Columbia River by boats or wooden canoes; but they never use that route, except for carrying letters. Formerly they transported some otter skins, which they used to pay to the Russians for rent of part of their territory; but they have given that up, because they found it so expensive, and they have made other arrangements.

365. Lord *Wharncliffe.*] Is not the Columbia one of the most dangerous rivers in America?

It is most dangerous for boats.

366. Earl *Stanhope.*] Have settlers from the Hudson's Bay Company gone to that island by sea, by way of Cape Horn?

Yes; it is the only way to send any quantity of baggage. The other route is only used for sending letters; the Rocky Mountains are so difficult; there is one stream that you ford 30 or 40 times in going up it; sometimes waist deep in cold water; it is a most difficult route.

367. What is the usual time for communication between England and Vancouver's Island, round Cape Horn?

It takes upon an average about three months; but now we communicate more quickly, so far as letters are concerned, across Panama.

368. But as far as regards emigration or convicts, the communication would be of necessity round Cape Horn?

I fancy

I fancy so, unless there was a transhipment at Panama. It would at least take three months to go round that way. They send all their goods round that way by ships.

369. *Chairman.*] It is less expensive going by Cape Horn than by Panama?

It is by the present arrangements. It is less expensive to send goods round the whole way, than to tranship the cargo at Panama.

370. Earl *Stanhope.*] Can you state the population of the existing settlements of the Hudson's Bay Company to the south of Vancouver's Island?

No, I cannot speak to that point exactly; but I can find documents that will give the information.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Tuesday next, at Eleven o'clock.

# *Die Martis, 24° Junii* 1856.

LORDS PRESENT:

| | |
|---|---|
| Lord Privy Seal. | Viscount Dungannon. |
| Marquess of Salisbury. | Lord Bishop of Oxford. |
| Earl Stanhope. | Lord Colchester. |
| Earl De Lawarr. | |

THE LORD PRIVY SEAL in the Chair.

Evidence on the Act 16 & 17 Vict. c. 99, on Transportation.

*G. Rennie, Esq.*

24th June 1856.

GEORGE RENNIE, Esquire, is called in, and examined as follows:

371. Earl *Stanhope.*] YOU resided for some years in the Falkland Islands?
I was seven years and a half Governor of the settlement.

372. In what year were you first appointed?
I was appointed in 1847.

373. When did you leave the settlement?
I left in November last.

374. What was the position of the settlement when you first undertook the command?
At that time it was dependent upon supplies from England for the subsistence of the inhabitants.

375. Supplies of food do you mean?
Of food. I may say, in fact, rations were issued to every person who could in any manner claim to be employed by the Government, similar to those issued on board ships of war.

376. I believe the population resided chiefly in the small town of Stanley?
With the exception of some few engaged in cattle-farming in other parts of the island, they did.

377. In what year was the town of Stanley founded?
The Government was transferred from the old settlement of Port Louis to Port Stanley in 1845.

378. What was its population when you assumed its command?
There were not quite 100 English, and about as many more Spaniards, in all, probably 150 or 160.

379. How far had that population increased when you left?
The resident population was about 600 when I left.

380. You say, when you first took the command, the population was dependent for supplies upon England; was that also the case when you left it?
Not at all. On my reaching the Falkland Islands, I gave notice to the inhabitants that I should not continue there, if they could not provide subsistence for themselves. Previously to my leaving England, I had some conversation with Lord Grey, who agreed with me that it was necessary to stipulate that the inhabitants should do something for themselves, and not remain dependent upon supplies from home.

381. What did they do in consequence?
At first they seemed a little alarmed at the determination I had come to; but almost immediately afterwards a large American ship was wrecked on the coast,

*G. Rennie, Esq.*
24th June 1856.

with a cargo of flour and provisions of every kind, the ship being on her way to California. This, for a moment, relieved them from the fears which they entertained of being left to their own resources; and by the aid of the Government, and contributions from my private resources, we chartered some time afterwards a schooner, which went to Rio de Janeiro to purchase coffee, tea, flour and other necessaries, the settlers taking one-half of the tonnage, and the Government and myself the rest. After this there was no further occasion for the Government to lend any aid.

382. What did the island produce when you left it?
The staple is wild cattle; there were from 50,000 to 100,000 wild cattle on the island when I went there: I have reason, however, to believe that they have been very largely reduced, first by a gentleman named Lafone, of Monte Video, who contracted with the Government for the purchase of a large tract of land, and the total dominion over all the wild cattle, wild horses and pigs. That contract has within the last three or four years been made over to a Company, called the Falkland Islands Company, who are now in possession of a large portion of the eastern island, on which the seat of Government is established.

383. Is it not the fact that the Government of Buenos Ayres some years since used the Falkland Islands for a convict settlement?
They had a very small settlement: I am not aware what number of convicts were ever there, but they must have been few—not exceeding 20, I should say.

384. In what year were they sent there?
The Buenos Ayrean Government sent out a gentleman, called Don Louis Vernet, as a trader, with certain privileges, in 1826. In 1829, as no objection had been made to Vernet's occupation, they conveyed greater powers to him, and, in fact, nominated him Political Governor of the Falkland Islands. Vernet, assuming his authority was sufficient, seized in 1831 or 1832 three American sealing schooners, the crews of which were killing seals on what he claimed as his property, condemned them, and sent them to Buenos Ayres, he himself accompanying them. The American Chargé d'Affaires remonstrated very strongly, and a long and angry discussion followed between the United States' Government and the Buenos Ayrean Government on the right to the islands. The former denied entirely the claim which Buenos Ayres had set up to the islands, on the pretence that the islands having belonged to Spain, they, as the successors to the rights of Spain in those latitudes, had the right to the sovereignty of the islands; but while denying the Buenos Ayrean rights, the United States Chargé d'Affaires explicitly acknowledged their recognition of the English claim to the islands, by prior discovery, provided England took the occupation and maintained it. I am afraid I should require to enter at considerable length into the subject were I to explain what might be necessary to elucidate the whole subject, by referring to what took place in 1764. I will therefore merely say, that the conclusion of this dispute was the sailing of the American corvette "Lexington" to Vernet's settlement in the Falkland Islands, and bombarding it, destroying all property of a perishable nature. Shortly after this Her Majesty's Government sent the sloop of war "Clio," and took possession of the islands, leaving an officer in charge of the flag, who remained there until the appointment of my predecessor, Colonel Moody, of the Engineers, to the Lieutenant-Governorship of the islands. Colonel Moody went there in 1842, as Lieutenant-Governor; and in 1844 Lord Stanley, now Lord Derby, resolved to constitute the islands a British colony; and a commission to the Governor was sent out to the colony.

385. When you first took possession of the Government were there remaining any of the convicts from Buenos Ayres?
None that were known as such.

386. You think their number never exceeded 20 in all?
I should think it was rather under than over that.

387. Did the Government of Buenos Ayres ever formally relinquish the claim which they had set up to those islands?
I do not speak with any authority on the subject, but I believe they did so three or four years ago.

388. With

388. With respect to our present possession of those islands, you were there as Governor on the part of Great Britain?
Yes.

389. How was the possession of the land divided?
The Government ignored the claim of Mr. Vernet to the land which he had possession of from the Buenos Ayres Government at the old settlement of Port Louis; and when my predecessor, Colonel Moody, went out and assumed the Government, the land sales commenced upon plans which were surveyed under his direction.

390. How is the land, in fact, divided at present?
The land is assumed to be Crown land, with the exception of what the Crown has sold to the settlers.

391. With respect to a considerable tract of land, was not it disposed of to the Falkland Islands Company?
It was, first, to Mr. Lafone, of Monte Video, who afterwards, with the assent of the Government, transferred it to the Falkland Islands Company.

392. Other tracts of land belong to other parties?
Other tracts of land have been sold by the Government to other parties.

393. Viscount *Dungannon.*] To different settlers?
To different individual settlers.

394. Lord *Colchester.*] I believe the Falkland Islands consist of two large islands, and a number of small islands, and some rocks?
Yes.

395. The Government settlers, I understand, reside entirely upon the eastern island?
They do.

396. And the land granted to the Falkland Islands Company comprises about one-third of the eastern island?
Yes.

397. There are no inhabitants upon the western island, are there, except a small missionary establishment?
No, only the mission at Keppel Island.

398. Earl *Stanhope.*] What is the case at Port Egmont?
That is abandoned altogether; there are no inhabitants there.

399. What is the position of the other old settlement at Port Louis?
A partner of Captain Sulivan now occupies it as a farm.

400. In fact, the two settlements of Port Egmont and Port Louis may be considered, practically, as transferred to the new settlement of Stanley?
As far as any Government functions are concerned, they may.

401. Or as far as population goes?
There are no inhabitants at Port Egmont; there are a few at Port Louis, engaged in farming.

402. Stanley is by far the chief seat of population at present?
It is. Next to Stanley, the principal settlement of the Falkland Islands Company at Hopeplan, has the most inhabitants.

403. I think you stated, just now, that the total amount of population when you gave up the Government in December last was about 600?
Six hundred residents; but, depending upon circumstances, there are in the harbour on board ships many more than that; I have known there to be nearly 1,000 belonging to the crews of ships, who of course derive their supplies from the settlement.

404. *Chairman.*] Are there any considerable works which are wanted for the purpose of developing the resources of the harbour, upon which it would be advantageous to employ convict labour in the service of the Government?
I do not think so; but permit me to say, there is one very important work which I think it would be most desirable to execute there: immediately after

*G. Rennie, Esq.*
24th June 1856.

my appointment, in conversation with Captain Sulivan, and some naval officers, (Captain Sulivan having surveyed a great portion of the island), I came to the conclusion, partly by his recommendation, that a patent slip would be a great advantage.

405. It would require but a small amount of labour in the colony to set that up, would it?

It would require very little labour. A dry dock has been suggested; but I may say, from what I know myself of the circumstances, and from my consultations with professional persons, that the nature of the soil, the small fall of the tide, and other circumstances, would make that next to impracticable; but a patent slip could be erected at a very moderate expense; indeed I obtained an estimate for it; Lord Grey approved of a scheme for the purpose. There was, at that time, about 6,000 *l.* of the colonial money in the hands of the Emigration Commissioners, and his Lordship requested me to obtain an estimate for the erection of a slip, but it was never carried out; I now still retain the same opinion that it would be a most desirable work, and it is the only work of any magnitude which I think is absolutely required. The cost would probably not exceed 5,000 *l.* for a slip capable of removing a ship of 1,000 or 1,200 tons.

406. If the Falkland Islands were employed for convicts at all, it would not be for the actual employment of convicts in a penal point of view, but as a place where they might be absorbed?

There is no probable prospect of their labour being absorbed, I think.

407. There is no employment in tending cattle there which would absorb the labour of free convicts?

The tending of cattle in the Falkland Islands is of a peculiar nature; it is similar to the management of them in the River Plate; it is all done by Spanish guachos on horseback; I have never known an instance of a stranger acquiring the necessary skill for working in the way which is required to manage wild cattle in the Falkland Islands.

408. Earl *Stanhope.*] How would that question be answered if it were applied to sheep; how are sheep tended in the Falkland Islands?

There are very few sheep; the nature of the country would prohibit sheep-farming being carried on to any great extent; the soil is unsuitable for them; a great portion is a swampy damp peat; there are some few tracts of a different character here and there, no doubt; but beyond a very moderate extent, there is no hope of sheep-farming being carried out.

409. Marquess of *Salisbury.*] Does that statement refer to the two islands?

It refers more particularly to the island which is now inhabited. On the western island there are greater tracts of dry land, but nothing, as far as I can judge, which would employ 50 convicts.

410. Earl *Stanhope.*] What is the condition of the islands as to agricultural produce?

I made repeated attempts to raise corn, of which I transmitted samples to Lord Grey; on one occasion I raised a tolerable sample of barley, but every other kind failed.

411. What appeared to be the obstacle; was it the badness of the soil, or the climate?

Not the badness of the soil, but the climate; the constant winds.

412. And the same cause prevents trees growing, I suppose?

I suppose so; I have tried to raise trees every year I was in the islands, but they never succeeded.

413. Are there bushes or shrubs?

There are some very fine shrubs, which are indigenous.

414. But nothing in the shape of a tree?

Nothing in the shape of a tree.

415. Are the Committee to understand, that your attempts to raise corn, though repeated, have been quite unsuccessful?

Quite unsuccessful.

416. And so with every other kind of grain?
And so with every other kind of grain.

417. Do potatoes grow there?
Yes; all kinds of English vegetables grow very well where they are sheltered.

418. Do you mean by "sheltered" in the valleys?
In gardens surrounded by walls.

419. Will not potatoes grow in sheltered valleys?
The peculiarity of the island is, that the prevailing winds are westerly, and the valleys generally run east and west.

420. Marquess of *Salisbury*.] So that the valleys are worse than the hills?
Yes, they become funnels, in fact.

421. And the potatoes will not grow unless they are sheltered by walls?
Or unless in some particularly favoured situation.

422. Lord *Colchester*.] Do you consider that that feature of the island would prevent there being a large population there at any time?
I never anticipate a large population, except an urban population.

423. Were you ever at the Scilly Islands?
Never.

424. Are you aware that no trees will grow there?
I am; in the Falkland Islands turnips grow without shelter, and very well.

425. Viscount *Dungannon*.] How do you account for that?
I believe the plant grows rather advantageously, with a moderate current of wind.

426. Are the currents of wind very strong generally?
I have never known stronger gales of wind there than in England, but they are much more frequent.

427. Lord *Colchester*.] Do not a great number of ships frequent the Falkland Islands at times?
Yes.

428. What number have you seen there at any one time?
I have seen 12 or 15 large ships in the harbour of Stanley.

429. Are they chiefly vessels employed in whaling?
Whalers touch there frequently; but ships which call there are more generally homeward bound Australian and guano ships from Peru, likewise outward bound, heavily laden ships, conveying coals or general cargoes to the west coasts of South and North America.

430. Do ships coming from ports in the Pacific to Europe frequently touch there?
Yes.

431. Are not the Falkland Islands well situated as a port of repair for ships bound from the Atlantic round Cape Horn, if they meet with any disaster?
Yes; nearly half the ships which touch at the Falkland Islands are ships which have reached, and many of them passed, Cape Horn, but have been driven back by gales, and come for repairs to the Falkland Islands.

432. If they did not touch at the Falkland Islands, would not they have to go nearly 1,000 miles further?
If the Falkland Islands did not afford facilities they must proceed to the River Plate. I may mention on this subject, that Mr. Hunt, who has been eight years Vice-Consul at Monte Video, and during part of the time acted as Consul-General, has lately informed me that the number of damaged ships coming to the River Plate for repairs has very considerably diminished since the means of repairs were supplied at the Falkland Islands.

*G. Rennie, Esq.*
24th June 1856.

433. Are there at the present time any depôts of stores and provisions at the Falkland Islands from which those ships can supply themselves?
There are; there are two large stores, one belonging to a gentleman of the name of Dean, Lloyd's agent, who has a very extensive store for the supply of shipping, and the Falkland Islands Company also keep a store. There are some minor stores, but those are the principal. When I went to the Falkland Islands there were no means of obtaining any marine stores whatever, except what were retained in the Government store, and issued on requisition.

434. Do you consider that there are at present at Port Stanley, and other places in the Falkland Islands, a sufficient number of warehouses for the reception of large depôts of provisions and stores, spars and things of that kind, which ships might want?
Quite sufficient for the demand.

435. And for receiving the cargoes of ships requiring to unload there?
Yes, quite sufficient; the cargoes of ships which are damaged are transferred to hulks. Since I went to the Falkland Islands there have been several large vessels condemned, and they remain in the harbour as receiving hulks for cargoes which are turned over when the ships are hove down for repairs. I may say that the want of a slip occasions great inconvenience and expense in heaving down ships for repairs.

436. Is the water by the shore deep enough to heave a ship down for repairs?
It is; but ships are hove down to hulks, not to the shore.

437. Are there wharves and other accommodations built there?
There are four jetties.

438. Do you find that you have a sufficient population at present in the islands for undertaking that kind of work?
I have never known any difficulty; but, of course, if there were more workmen, the work would be done in less time.

439. Are the buildings of stone?
There are some of stone; formerly they were of wood, and some of brick. I may say that stone is the principal material used at present.

440. Do you consider that if there were any additional population brought into the island for the express purpose of being employed in labour, whether convict or free, you could find occupation for them in constructing buildings of that kind, warehouses, piers, wharves, and so on?
No doubt they might construct those buildings; but I really cannot say that any are urgently required, except the slip I have alluded to.

441. Marquess of *Salisbury*.] What means are there of provisioning any larger population?
The islands produce cattle, sheep and pigs; there are immense quantities of wild geese, and rabbits, and fish. Vegetables are raised in sufficient quantity to supply the demand.

442. There is no corn?
No corn. Flour is imported sometimes direct from the States; sometimes American flour is imported from England. At this moment there is loading a 500 ton ship at Liverpool, belonging to one of the settlers, with provisions of all kinds for the islands; there has never been any difficulty since the occasion to which I before alluded.

443. If there were any convicts there, they must be supplied with corn, either from England or America?
Decidedly.

444. Earl *Stanhope*.] What is your opinion as to the healthiness of the islands?
I think they are remarkably healthy for men of sound constitutions; persons of shattered or delicate health might find the climate too rough for them.

445. Are

445. Are the winters very severe?
Not at all; the winters are not so severe as the English winters.

446. In what respect would a delicate person find the climate too rough?
The constant gales are trying. Though the temperature is not very low, yet in a gale of wind you are more susceptible of cold than you are when the weather is still.

447. Viscount *Dungannon.*] Did not you say that the gales are not so violent as in England?
They are not more violent; they are more frequent.

448. Lord *Colchester.*] Is there any long continuance of frost?
During the seven winters I was there, we had only one frost to continue any length of time; that lasted six weeks.

449. How low did the thermometer fall on that occasion?
Upon one occasion only, I think it was down at 18° Fahrenheit.

450. Is there much snow in winter?
I never saw more than three inches perpendicular fall.

451. Have those wild cattle lived there a great many years totally without any shelter, except what they could find for themselves?
Yes; they were placed there, it is supposed, by De Bougainville, in 1764.

452. Earl *Stanhope.*] Do you see any probability, from any circumstances, of the number of free settlers increasing very materially in the Falkland Islands?
It can only be by an increased resort of shipping occasioning artisans and persons connected with the repairs and supplies of ships to settle there.

453. Do you think, notwithstanding the natural disadvantages you have described, such as the non-production of corn and of trees, free settlers are likely to be attracted in any numbers?
Not as a rural population; an urban population, of course, must depend upon the employment created, and which can only be created by the resort of shipping.

454. What is your own expectation as to that point; what increase do you anticipate?
The increase has gone on pretty steadily since I went there, and since supplies were provided for shipping; but the increase must depend very much upon the improvements taking place in navigation. There is no doubt the superior class of vessels employed in the Australian and Pacific trade may make the voyage without touching there at all. We have had steamers coming there for the purpose of coaling; and if steamers returning from Australia require a station for coaling, they could find no better than the Falkland Islands; but if they carry coals for the whole voyage, as has been projected, that will lessen the resort to the Falkland Islands.

455. There is no bed of coal in the Falkland Islands, is there?
No; but I have never known within the last six years the stock of coal in the Falkland Islands to be less than from 1,000 to 2,000 tons.

456. Viscount *Dungannon.*] Where does that coal come from?
First, there are ships taking coals for the Pacific Steam Company and California, which are generally overladen, and, when damaged off Cape Horn, are frequently obliged to discharge 200, 300 or 500 tons, which are sold: we have sometimes also wrecks of ships, with very large cargoes of coal.

457. *Chairman.*] Are those coals going out to the Chilian coast?
To the Chilian and Peruvian and Californian coasts.

458. Earl *Stanhope.*] Is peat much used as fuel?
A great deal; not exclusively, because coals are sometimes sold at such a reasonable price, that they are cheaper than peat. I have bought coals at 11*s.* or 12*s.* a ton; they are now, however, seldom under 30*s.* or 40*s.*

459. The supply of peat, I suppose, may be considered inexhaustible?
As far as may be judged at present, I should say it is inexhaustible.

*G. Rennie, Esq.*
24th June 1856.

460. Viscount *Dungannon.*] Are there any mineral products in the island?
None at present known.

461. Is the heat in summer at all extreme?
No; I have rarely seen the thermometer exceed 75°; that may be one cause of the corn not ripening, as well as the prevalence of winds; there is not sufficient sun.

462. Lord *Colchester.*] Is there any fishery on the coast?
There are seal and whale fisheries, and occasionally mullet are caught in very great quantities in the creeks.

463. Is there likely to be any occupation for fishermen in boats?
Not in boats. Captain Sulivan has attempted on several occasions to catch fish by trawling; but he was always unsuccessful. Mullet are sometimes caught in very great quantities in the creeks; and I had hopes that they might be cured, and exported to the Brazils.

464. Are they caught with a seine?
Merely a stop net put across the creeks.

465. Viscount *Dungannon.*] You are not of opinion that labour could be found for more than 50 convicts?
I am not even prepared to say that employment could be had for 50 convicts by the settlers; probably more definite information might be procured by the Committee calling the Secretary to the Falkland Islands Company: they are the chief employers of labour.

466. Lord *Colchester.*] Are there no Government works which could be advantageously established?
I know of no Government work which is called for except the slip. It may be said, why do not you make roads? At first that would seem to be a very desirable improvement; but in fact, looking at the map of the Falkland Islands, it will be seen, from the facility of sea carriage, that they are unnecessary for weighty goods; and travellers across the country who ride on horseback would not use the roads. I made roads in the neighbourhood of the settlement; but as the horses are not shod, the riders prefer the grass.

467. Marquess of *Salisbury.*] You say there is no native population?
None.

The Witness is directed to withdraw.

*Captain B. J. Sulivan, R. N.*

Captain BARTHOLOMEW JAMES SULIVAN, R.N., is called in, and examined as follows:

468. *Chairman.*] YOU are acquainted with the Falkland Islands, I believe?
Yes; better than any person, I think. I am the only person who knows the whole group thoroughly. In the years 1833 and 1834, I visited the east island as a lieutenant of the surveying ship, with Captain Fitzroy, and I was employed on the survey of the eastern parts, the old settlement and the new. In 1838, I was sent out in command of a surveying vessel, to continue the survey of the group. I was there only one season, seven months of the summer, then; but in 1842, 1843, 1844 and 1845, I was again employed in carrying on that survey; I was then engaged on the survey of the west island; the east island survey had been completed, and I was employed during those last three summers, about seven months of each, entirely on the western island. In 1848, I went out again, and took my family out to reside there, for my health. I had not been well for some years, except while I was there; I was told I must go abroad to avoid the English winter, and I chartered a ship, and took my family there, knowing it to be the healthiest place.

469. What is the cause of its being healthy?
I think the dry weather in summer. The winters are occasionally very severe, nearly as severe as the last winter in England was; but ordinarily the winters are comparatively mild. There was not sufficient ice to bear a person's weight,

weight, two winters out of the three I was there. I had been four years absent from the colony, when I returned in 1848, and during that time, out of the 300 or 400 persons of all nations, principally of the lower classes, very few of whom had water-tight roofs over their heads, and many of them went to bed drunk every night, there had not been a natural death of man, woman or child; people had died of drink, and had died of *delirium tremens*, and from accident; but I do not think, from what I heard from the clergyman and the medical men, there had been a natural death.

470. Do you think the Falkland Islands offer facilities for the employment of convicts?

I think that they have some very great advantages for a convict colony, and some advantages which no other colony possesses; on the other hand, they have one very great drawback. It is on the balance between that drawback and the advantages that the whole question rests. The great advantages are, the nearness to England, compared to other colonies. I presume nothing but Australia or Vancouver's Island could be thought of except the Falkland Islands. The voyage is much shorter even than to Australia, and very much shorter than to Vancouver's Island, because the worst passage round the Horn is all avoided. On the other hand, it is not a wooded country, but entirely open, commanded by hills, so placed that from them the whole group is overlooked, so that a series of signal stations over the islands would command entirely every spot in them. The escape of convicts, therefore, would be very difficult, and the taking care of them comparatively less expensive. The strong winds blow from the continent to the Falklands, which would prevent escape by boats. Mr. Montague, the colonial magistrate, when I was there, who had been 20 years a Puisne Judge and Attorney-general in Van Diemen's Land, told me that the absence of trees, and the facilities with which the place could be overlooked, would make a difference in the expense of hunting runaway convicts of 20,000 *l.* a year alone, as compared with a country which was wooded. The healthiness of the colony is another advantage, and yet the climate is not too pleasant for the men to work in. The climate in winter would be very often unpleasant which would be consistent with transportation there as a punishment. Moreover, while they were kept as convicts by the Government, there would be many useful works which they could be employed on, both nationally and locally; I mean such works as docks, and works for the advantage of the shipping calling there, and which would be nationally of great importance, because it is the only point we possess between the Cape of Good Hope and British Guiana; and on the other side, from North America to Australia. It is the central point between all those British possessions, past which a large proportion of our trade goes. Before a settlement was formed there, merchant ships used to visit, as they still often do unfortunately, the ports on the coast of Brazil; even homeward bound ships would go into Rio Janeiro, or into the River Plate. By going into any port on the Brazilian coast, a ship, independently of the port charges, and the expenses to which she is put for repairs or provisions, has to make her easting again to get into the track which she has left, which alone causes a delay of from two to four weeks; it may be said even from three to four weeks. The Falkland Islands are exactly in the track of all those vessels.

471. What are the sort of public works upon which you would employ convicts?

A large dry dock would be one very important work.

472. Is there any disadvantage for that purpose in the absence of tide*?

It is a disadvantage, but one which is not entirely objectionable; it is only a question of additional pumping power. There are peculiar facilities for making docks in some parts of the island, if expense were a great object. There are many creeks there, and places which would afford facilities for building up the creek, with gates, which would form a dock. There are creeks there deep enough for a line-of-battle ship to go up, but where there would be hardly room for her yards.

473. The

* There is a rise and fall of six or seven feet, and in some parts of 10 or 11 feet.

*Captain B. J. Sulivan, R. N.*

24th June 1856.

473. The mere existence of those creeks, unless you had to supply deficiencies in them by public works, would not give you employment for convicts?

One source of employment would be a work which is absolutely necessary, if convicts went there, and that refers to the facility of feeding them—I allude to fencing the tussac. The island had great facilities, till within the last few years, for insuring a large supply of food. When I first went there, the whole coast of the east island was surrounded by a large belt of tussac, which all those shores are surrounded by; it is a kind of grass, having the valuable property of being rich and green all the winter, and growing so high that no snow can cover it, and the cattle find in it food and shelter; and when the winter came, they went into this tussac, so that when I used to go down there early in the spring I found them quite as fat as at any other time of the year; they were in as good condition in October as at any other time of the year, and entirely through this supply of tussac. That made me suppose that cattle-farming there could be carried on with great advantage: I overlooked the fact, however, that the cattle were gradually destroying that tussac; and when I went out in 1848, to my astonishment, I heard that the cattle in the spring were very poor and miserable, and that they only got in good condition towards the end of the season; a number died in the winter, particularly young ones; whereas when I had been there before, I had never seen a dead animal, except when it had stuck in a bog. I had never seen a cow without a calf by her side, and I always saw them in good condition in the spring, which is the calving season. When I went out again I rode down to the cattle districts, and I saw them so wretchedly poor that we could have caught them on foot; their hair came off them, and they were in a very miserable state, so that numbers had died; I could not at first account for it; I thought it was a disease; but before I left the island I found that it was owing to the destruction of the tussac having deprived them of winter food.

474. That was owing to the increased number of cattle?

Yes; the cattle increased up to 30,000 or 40,000. Perhaps in one severe winter they finished the whole of the tussac, and it never recovered again; it seeded every year from the small islands, but the cattle picked it out as fast as it seeded; and it requires fencing in for a couple of years.

475. So that the natural facility for breeding cattle there is exhausted?

It has entirely ceased on the east island; but by fencing in the points which had tussac on them, and by fencing in the belt of tussac ground which fringes the shore, in two years you will restore the whole of it.

476. The fencing, of course, must be upon a large scale?

It would be a very expensive work. While I was there I went to a great expense in fencing in small places, so valuable was the tussac for winter; and I found in the most severe winter, when the cattle were dying outside, that by merely getting them on to a small island, with a ford to it, those which were got on to the island alive in two or three weeks were recovered.

477. In fact, the whole of the fitness of the Falkland Islands for the breeding of cattle, or supporting cattle, depends upon the power of husbanding the growth of the tussac?

Entirely. I believe without that tussac the cattle will even deteriorate, and probably diminish in numbers, and fall off. I do not think, from what I saw, that cattle will ever succeed without tussac, except in small numbers—small tame herds, which have a large extent of pasture to range over in proportion to their number. In one winter when I was there, out of 1,300 cattle, I lost 200 in the snow, many dying in one night: having got them in this miserable state on to the island where the tussac was, they were in three months perfectly fat, and not one was lost. Two years afterwards a fall of snow took place very suddenly; the snow was too deep for them to be moved to the island, and the consequence was, that out of 1,200 fat cattle, 800 perished in a fortnight.

478. The only public works on which convicts could be employed would be in providing docks, and erecting fences for the better management and protection of the tussac?

Fencing in the tussac, and perhaps dividing the place by fences into grazing farms, and public works, such as quays and docks for the settlement, and what fortifications would be necessary for protecting a port of call.

479. When

479. When convicts were no longer in the Government employment, what would there be upon which to employ them?

I think that is the point which is so doubtful; that is the great drawback. I visited the Australian colonies in the old convict days, and at the time when I heard the question very much discussed in the days of the old ticket-of-leave system. I believe myself that no transportation to a colony is likely to answer as a means of reforming convicts, except where the ticket-of-leave system can be carried out, as it was in Australia in former years, guarding against some of the great disadvantages which then attended that system. Probably no plan has ever been so successful in reforming convicts as that ticket-of-leave system. For that purpose you want a free population, and capital to employ convicts.

480. What inducement is there which will draw to the Falkland Islands a considerable free population and capital?

There is no inducement, except grazing farms, which will never employ a large population, and that is the great drawback to it as a convict colony.

481. Earl *Stanhope.*] Do you think commercial pursuits, considering the position of the Falkland Islands, are likely to attract any considerable number of free settlers?

I think if convicts went there, the fact of their going there would cause a much greater trade, and make the place better known. They would cause a much larger number of ships of all nations to call there. The settlement would increase very rapidly, and there would be employment for a certain number of convicts in the town: I speak of ticket-of-leave men. There would be employment for a greater number as the town increased, and also in the cattle-farming necessary for supplying that population. The island which affords much the greatest facility now for supporting a large convict population is the west island. On the West Falkland Island there have been no cattle, except the small herd I put on myself some years ago. They have increased considerably, but the tussac on the west island is still uninjured, and it is at least treble the amount it ever was on the east island: it grows much further from the sea, where the shore is more exposed. On the West Falkland Island the belt of tussac is in some places a mile wide.

482. Lord *Colchester.*] Does the tussac grow nowhere except on the coast?

Only on the coast.

483. Viscount *Dungannon.*] There is not much pasture in the inner part of the island, is there?

Nearly the whole of the island is pasture.

484. Is not it very poor?

The pasture in summer time is very rich and good. There are a million and a half of acres on the east island, and a million on the west island. Nearly the whole of those are covered with a natural pasture. I suppose out of the million and a half of acres on the east island one million are good pasture: the other half-million would be mountain and rock and stone.

485. Bishop of *Oxford.*] What is the nature of the soil?

In the central chains the rock is nearly a pure quartz rock; quartzose metamorphic rock.

486. Does it bear marks of volcanic action?

Igneous, but not volcanic.

487. Are the plains below that the débris of those central rocks, or are they different formations?

They are the débris of a continent of some kind, probably from South America, though that is so far from it that it is difficult to say; wherever quartz rock is, the sub-soil is clay, a very retentive clay, and the soil is a peaty soil, with roots of plants varying from one foot to two and three feet, which forms what is termed a peaty soil there, but which is not so deep but that cattle feeding on it tread it firm.

488. Are there any remains of former trees?

None: the difficulty is, in the low land, away from the hills, to find peat for fuel.

489. What is the soil there?

A black mould into which the roots of the plants go about six inches deep, and

*Captain B. J. Sulivan, R. N.*

24th June 1856.

and over which grass grows; first a coarse kind of tussacy grass, and between it a rich fine grass like thread, but so tender that it breaks off easily.

490. Have any other kinds of grain than wheat been tried?
I have heard of barley and oats being tried, but not rye.

491. What was supposed to be the reason they did not grow?
Barley and oats do grow, and they grow well; but they have only been tried in the gardens at the settlement; wheat is not grown; but Mr. Vernet, who had it under the Buenos Ayres Government, has assured me repeatedly that he had ripened wheat, and ripened it well. I do not believe myself that it could be depended on, though it might ripen in a very fine summer.

492. The difficulty is in the ripening?
Yes; I believe it is much like the north of Scotland, where only barley or rye or oats will grow.

493. Viscount *Dungannon.*] There is no difficulty in the cultivation of rye and barley and oats?
I have seen a patch of oats in the Governor's gardens, which turned out a very fair sample; I saw one specimen of barley, of which I brought home some, and it was pronounced pretty good. Sir William Hooker told me we could form no opinion how far grain would answer from only having tried it in gardens on the edge of the sea; the sea was such a drawback, that if barley or oats would ripen on the edge of the sea, in the central part of the island it would be likely to do very well.

494. Bishop of *Oxford.*] Have the mountain ranges ever been carefully examined, with a view to see whether they contained any mineral?
Yes; I have examined as carefully as I could every part.

495. Are you yourself a geologist?
I am fond of it, and have a smattering of it.

496. Can you tell us what geologists would call the formation?
*No; it is a fine-grained sandstone. Specimens of coal were sent out to me, which Sir Henry De La Beche pronounced very good, which were said to be from the Falkland Islands; but I believe they were sent to the Falkland Islands first.

497. Viscount *Dungannon.*] Do you conceive that, upon the whole, the country is such as would tempt agricultural settlers to go there?
I do not; from my own experience there, I would not advise people to go there as agriculturists; but I would advise people to go to the west island for grazing, or any island where the tussac has not been destroyed, for I am convinced that cattle will succeed there, probably better than in any part of the world.

498. Marquess of *Salisbury.*] What is the cost of bread provisions?
You can get very good supplies of corn from the River Plate. The American barrels of corn we used to get there were sold at the rate of from 36 *s.* to 42 *s.* for 200 lbs. of flour.

499. Earl *Stanhope.*] What would that be equivalent to per quarter?
I cannot say. They now grow a good deal of grain in South America, and the Rio Negro corn can be brought over at a much cheaper rate than that.

500. Viscount *Dungannon.*] If the country would not answer as a place of settlement for agriculturists, would there be sufficient employment for convicts there?
The works which convicts could be permanently employed in while under the Government would not be remunerative works, like our own harbours and docks at home; but the great difficulty would be in finding a population to employ the ticket-of-leave men when they obtained their release.

501. According to your evidence, it would appear that there would be no employment to be found for that class of men?
I do not think you would get agricultural settlers to go out, except as graziers, and they would employ a very small number of people. The west island would

* This question was with reference to the south part of the island only, where the formation is different.

*Captain B. J. Sulivan, R. N.*

24th June 1856.

would not do for more than 40 or 50 fine grazing farms, and 10 or 15 men would be the most that each of those would employ, but the fisheries would employ a good many. There are, however, extraordinary facilities for fishing there. I believe, upon the whole, that, for a population of settlers, the island is admirably adapted—I mean persons holding small plots of land, who would grow a little oats, and corn, and potatoes, and vegetables for their family use, and keep a few cows, and employ themselves in fishing.

502. *Chairman.*] Those are not persons who would be great employers of the labour of convicts?

No; I am supposing that liberated convicts might be located in that way, and so form a free convict population, living like the inhabitants of the Orkneys and the Shetland Islands and the islands of Scotland. The difficulty is, that you would require to have a large female population there; you would require female convicts there to supply wives for the men.

503. Marquess of *Salisbury.*] Have you abandoned the island altogether?

My friends and myself, who have some property there, have given directions to sell it. It consists of cattle, and we do not find them answer, in consequence of the want of tussac.

504. *Chairman.*] Any settlers in the island must be fed on purchased provisions, as far as the supply of meat goes, must not they?

You could raise cattle to any amount in the west island.

505. But when the cattle became numerous the tussac would disappear, would not it?

No; when the cattle are tame you would not allow them to go into the tussac except in the winter. A herd of cattle does admirably when you have a little tussac to put them into in the winter; the pasture is so good in other parts of the island that the cattle get fat on it, and if you have a little tussac to carry them through the bad time in the winter, you need have no fear whatever for the cattle; when the east island points are fenced in, and the tussac restored, you might keep a very large amount of cattle there. I believe you would, as far as meat, fish and vegetables went, be able to feed any amount of convicts you might wish to place there; then the question would be, whether oats and barley would grow sufficiently for the purpose of feeding them.

The Witness is directed to withdraw.

*G. F. Moore, Esq.*

GEORGE FLETCHER MOORE, Esquire, is called in, and examined as follows:

506. *Chairman.*] YOU are acquainted with Western Australia, are not you?

I have been connected with Western Australia for a great many years.

507. Under what circumstances?

I went to Western Australia at an early period after its settlement, with a promise from the Government, that upon any legal appointments being made there I should have one. I went out there on my own resources as a settler, but with that promise from the Government. That promise was redeemed a short time after I arrived there, and I was first appointed Commissioner of the first Civil Court which was established. I remained in that office for some time; afterwards I was appointed Advocate-general of the colony; I acted for nearly two years, upon the illness of the Governor and the death of the Colonial Secretary, as Colonial Secretary also; but my appointment has been principally that of Advocate-general.

508. Earl *Stanhope.*] Will you have the kindness to explain what are the duties attached to the post of Advocate-general in that colony?

He was sole legal adviser of the Government, a member of the Executive Government, and a member of the Legislative Council.

509. How many years did you fill that office?

I should say, considering that I was in other offices during that time, about 20 years.

*G. F. Moore, Esq.*

24th June 1856.

20 years. I was 22 years officially connected with the colony; but I filled the office of Advocate-general about 20 years.

510. *Chairman.*] You were there when the first introduction of convicts took place?

I was; about 18 months after the convicts were first introduced I left the colony.

511. What is your impression of the fitness of the colony for the reception of convicts?

I consider the colony very well suited for receiving convicts.

512. Is convict labour much desired there?

Labourers are very much required, and very much desired, if free labour could be obtained; I am not prepared to say persons would not prefer free labour; but labour of any kind is very much desired, and therefore convict labour, certainly.

513. Western Australia does not present, under present circumstances, does it, those attractions to free settlers which its neighbours do, and which draw to them a supply of free labour?

The attractions of some of the neighbouring settlements are very much greater, and therefore Western Australia has been rather eclipsed.

514. Have you formed any opinion as to what number of convicts might advantageously be employed, and absorbed annually in the population?

That would depend very much upon the terms upon which their services were offered to the settlers; if they were offered upon certain favourable terms, the settlers would be very glad to have them to any extent they could employ them; but if they were offered on terms not advantageous, they would be indifferent about them.

515. Do you speak of pecuniary terms?

Yes.

516. You mean to say that it depends upon the rate of wages which would be secured to them?

Yes, and on certain other points also; wages have not only to be paid regularly every month, but to be paid in money. That is a great inconvenience to settlers in a new colony. After the hay harvest, the sheep shearing, and the corn harvest, the agricultural settlers may have money in their hands which they have not at other times; it was, therefore, an inconvenience to the settlers to be obliged to pay wages monthly, and in cash, to certain magistrates and officers appointed. That was one of the reasons which made it more difficult for settlers to receive a number of convicts than it would otherwise have been.

517. Are there any public works in the colony on which you conceive convict labour might be employed with great advantage to its resources?

Undoubtedly; a number of such public works could be specified; I should say one of the most urgent public works would be an extensive jetty at the sea-port of Fremantle.

518. Have you ever heard any estimate of the length of time during which such a work might employ a given number of hands?

I may have heard an estimate, but I do not recollect it exactly. I should think such estimates are very possibly in existence, and in the possession of the Colonial Government.

519. What other works would you suggest besides the jetty?

Roads and bridges, and water tanks and wells.

520. Earl *Stanhope.*] And a railway?

I would suggest a railway, but I fear that where there is not a thick population, a railway is hopeless.

521. Has not a railway been suggested from certain mines to the seaboard?

I suppose so, latterly. A railway has been often spoken of and hoped for; whether it has been suggested in any practical way, I am not aware. A road was very much required, indeed, from certain mines to the port of shipment; that

that was at a place nearly 200 miles north of the old settled part of the colony.

522. Lord *Colchester.*] How long is it since you left the colony?
It is about four years.

523. Earl *Stanhope.*] Were not you opposed to the system of receiving convicts when it was first proposed?
In this way I was: the colony was established with a pledge, as it was understood to be, on the part of the public, from the Government, that there should be no convicts sent there; I, and I believe many others that went there at first, went there very much for that reason, at least that was one of the reasons that influenced me to go there rather than to any other colony; but after many years, finding the colony was languishing, and finding that the desire for convicts was increasing every year, several of us who had been opposed to it were willing to stand back, and let others come forward who wished it; when, therefore, there was a public meeting for the expression of an opinion by the colonists, those who had been formerly opposed to convicts being received were silent; and I may now say they assent to it, at all events they do not dissent.

524. The results of the experiment have been, upon the whole, satisfactory?
Decidedly so; the expenditure of the money is one of the circumstances which has given the greatest satisfaction.

525. *Chairman.*] The expenditure of the Government money?
Yes; that has thrown an expenditure of nearly 100,000 *l.* in the year among a population which was very poorly supplied before.

526. The population is 5,000 or 6,000, is not it?
It was about 7,000 when the convicts first arrived.

527. Earl *Stanhope.*] The apprehensions felt by those who opposed the measure have, in a great degree, been dispelled by the experiment, have not they?
I should say, there was no apprehension of danger; it was rather a fear of moral taint; but the door having been once opened, they consider it would be unwise to shut the door, but that, on the contrary, it should be opened as wide as possible.

528. Do you speak from communications you have had with the colonists since you have left the colony?
I speak principally from my experience while I was there; but I have also had frequent communications from colonists since I left it.

529. And those have expressed satisfaction at the convict system?
Yes; they all consider the colony has received a great impetus by the expenditure of the public money, and by the labour of the convicts, so far as it has been used or applied there.

530. What are those employments which the convicts would find when their engagement on public works was at an end?
Employment as farm-servants principally; shepherds, persons who would assist in clearing land, in cutting timber, in splitting timber, in making posts and rails and fences, and other kinds of agricultural operations belonging to a new colony.

531. Have you any idea to what extent the free labour of persons who had been convicts could be absorbed advantageously?
That would depend very much upon the population, which is increasing, but increasing only by natural means, and it would be very difficult to say; if convict labour were supplied to settlers gratuitously for a year, or at a very low rate of wages for a year, I should say, that from 1,000 to 2,000 annually could be absorbed; but it must be recollected that the convict population must bear a proportion to the free population; it would never do to let the convict population overcome the free population.

532. You say there are none but the natural sources of growth possessed by the colony?
Only the natural increase of the population, voluntary immigration having nearly ceased.

*G. F. Moore, Esq.*
24th June 1856.

533. Which, of course, is a very slow process?
It was about 400 or 500 in the year.

534. Lord *Colchester.*] Was not there an agreement on the part of Government to send out a certain proportion of free settlers as colonists?
It was understood by the settlers generally, that one of the conditions which were offered to them was, that there should be one free settler sent out for every convict.

535. As far as you are aware, has that agreement been adhered to?
I believe not; I believe it was a cause of great complaint among the colonists that it was not so.

536. *Chairman.*] Have you understood what was the cause of the Government not fulfilling that stipulation?
I have not; I should think it was difficult to get so many persons here to go out.

537. Marquess of *Salisbury.*] Are there not sufficient inducements to settlers to go to the colony?
The inducements would only apply to those who go out voluntarily at their own expense as free settlers.

538. Are there sufficient inducements for settlers to go, if sent out at the expense of the Government?
Certainly; there is a very large tract of country, which, in its natural state, is available for pasture, and is capable of being turned to agricultural purposes. I take it, an option is not offered to those who are sent out at the expense of the Government; they are persons who are picked up by the Government wherever they can get them, and sent out at their expense. I do not know that they offer an option to emigrants, to the effect, "We will send you to this colony or to the other, if you prefer it."

539. What inducements are held out by the Government to settlers when they arrive in the colony; do they get any free grants of land?
No; certainly not. Those to whom I understand the question to apply are persons who are rather in distress in this country, and not able to make a livelihood, but are sent to a country where they may do so.

540. You have stated that there was an agreement on the part of the Government to send out one free settler for every convict?
I stated that as a matter of hearsay; it was the opinion of the settlers.

541. Has a free settler been sent out for every convict?
I believe not; but I am not capable of answering the question exactly.

542. Could sufficient inducement be held out to free settlers to induce them to go out to Western Australia at the expense of the Government?
I should say, certainly, if free grants of land were offered, then persons from this country, I should say, would gladly go out to get possession of those free grants of land, and being on such grants, they would be able to employ labour, if they had capital.

543. What are the objections to making free grants of land?
There is an Act of Parliament, saying land must not be sold under 1 *l.* an acre.

544. What would be the objection to hold out such an inducement to free settlers as that of making free grants of land?
I cannot answer that question; it must be in the mind of the Government.

545. Do you see any political objections to it?
I do not think there are any political objections to it. It was upon that system that Western Australia was first established, and I always thought it was a good system; but it has been entirely departed from.

546. In your opinion, there are no objections to making free grants of land?
No; I think it is a means of inducing persons to go to a country which requires a population; and I think it a wise and judicious plan.

547. In

547. In your opinion, if those free settlers were thus encouraged, they would be enabled to employ a certain proportion of the convict population?
It would increase the free population having land, which land would require to be worked, and, therefore, it would increase the means of employing the convict population, provided there was capital to support them, and pay wages.

548. Then, in your opinion, such a mode of increasing the number of settlers would enable Western Australia to receive more convicts?
Undoubtedly; the greater the extent of land which is occupied, the more labour will be required.

549. Viscount *Dungannon.*] Without such free grants of land, you do not think there is sufficient temptation to persons to go out there as settlers?
I think, in comparison with the great temptations there are in the neighbouring colonies, there is a want of inducement to go to that colony; but setting aside those very extraordinary advantages belonging to other colonies, I think it could stand its ground with the rest.

550. What are those extraordinary advantages which you refer to?
The gold mines and the rich copper mines. The gold mines present an inducement; whether wholesome or not, it is not for me to say, but an inducement before which everything gives way.

551. *Chairman.*] Even previous to the discovery of the gold mines, Western Australia still lingered behind the other Australian settlements, did not it?
It did. There were many reasons concurring to keep it rather in the background. It is a wide question.

552. Should you say this was a fair description of the country: "The great scarcity of water, the parching heat of the dry season, and the uncertainty of the wet one, will always render this country liable to great fluctuations in the amount of agricultural products, and more or less dependent upon other countries for food; and there is very great doubt, in the opinion of some of the first settlers (now 23 years), that this colony can ever support even a moderate population. At present there is not six months supply raised, and the large tracts of barren wastes between the few available patches give little encouragement to any agricultural undertaking. There are hundreds of miles where there is nothing but sand, bush and forest"?
I should say it certainly is not a fair description of the capabilities of the colony. No doubt there are tracts of sand, but there are immense tracts of land available for agriculture, which would be turned to agricultural purposes in this country; and the whole country is capable of growing vines. It is peculiarly adapted, I consider, for the growth of vines. Much of the sand is calcareous, and possessing very fertile qualities.

553. The growing of vines is an employment which requires rather a thick population, does not it?
Certainly not.

554. Is not a great deal of manual labour usually expended upon vines?
I think not; I had one vineyard myself of about four acres, besides another, also of four acres, which was destroyed by fire and flood, and I found it did not require a great deal of labour. The ground required to be trenched at first, and the vines planted in a very simple way; but the culture of them afterwards requires very little labour.

555. Is the wine produced from vines, upon which little labour is bestowed, of much value, generally speaking?
I do not think the vine in that country requires much labour. You must, of course, pay some attention to it in order to get produce from it. You must take care that caterpillars and insects are not allowed to destroy the vine itself, and you must take care that weeds do not overcome and smother it; but the vine is so kindly in its growth, and so abundant in its produce, that, in my opinion, it is the thing which yields the greatest and readiest return.

556. You think the growth of vines might be made an available resource for the colony?
Yes; I consider it a country peculiarly well adapted to the growth of the vine.

 557. Is

*G. F. Moore, Esq.*
24th June 1856.

557. Is the culture of the vine carried on to a great extent already?
As far as each individual settler is able to cultivate a few vines he does it, and he increases the number as his means enable him to do so.

558. The vine is not grown for the purpose of exportation of wine, is it?
It is grown with the intention, first, of using the grapes, and then of making a light liquor, which is used in the way that cider or beer would be in this country. I dare say people look forward to having a surplus quantity which they can dispose of, and send even to other countries. At present, they are able to consume all the wine which is made. The people use grapes very freely; they make raisins and they make wine. My bailiff, who was on one of the farms occupied by myself, made 1,500 gallons in the last season. That was all used by the servants and people about, just as you would use cider in this country. In reference to the extract which was read to me just now, I may say that the colony of Western Australia is a colony extending 1,000 miles by 800 miles, and no individual has been over more than a small portion of it. On the banks of the Swan River, and several other rivers I could mention, there is land which is available for agricultural purposes to a very great extent, to a greater extent than could be made use of for many years. It is the want of labour which prevents the land being made use of. There are millions of acres there capable of cultivation, as much so as any wild land in this country.

559. Besides labour, you of course require capital, in order that you may employ labour?
Yes.

560. The great question is, how you could obtain the required capital there?
There is a proportion of capital and of settlers there ready to employ labour. The usual amount of wages in the colony is from 30*s.* to 3*l.* a month, or I might say from 20*s.* to 3*l.* a month, the men being fed in the house and taken care of.

561. You were asked just now what power of absorption of labour existed in the colony, to which you answered that that would depend upon the terms upon which that labour should be supplied; and that to give any considerable encouragement to employ labour, it must be furnished on very low terms, or gratuitously by the Government?
The amount of convict labour employed would depend very much upon the amount of wages demanded from the settlers. If they had to pay a high rate of wages, they would do with as little amount of labour as they possibly could; they would cultivate as much as would supply their own establishments, and merely part with whatever chance surplus they had; but if they had labour supplied to them upon easy terms, they would extend their operations, and raise produce for the market.

562. What should you call easy terms?
I should say, in the colony, 1*l.* a month would be called easy terms; 30*s.* would be considered moderate terms; 2*l.* would be considered rather high; and 3*l.* too high.

563. You think if labour could be furnished to them at the rate of from 1*l.* to 2*l.* for an able-bodied man, inclusive of provisions, there would be the power of absorbing a considerable quantity every year?
Yes, in proportion to the number of colonists.

564. How many do you think could now be taken up annually?
It is difficult to answer that; the supply of one year is not expended in that year; the same persons remain; and if 1,000 persons are employed this year, it would not follow that 2,000 would be employed the next year, and 3,000 the next year, and 4,000 another year. If you supply 1,000 labourers in a population of 7,000 in one year, those 1,000 labourers will be better able to work the second year than the first. They are, when they first come out of the ship to the colony, almost wholly useless as labourers; they do but little the first year; that is one reason why I said that the labour of convicts should be offered on easy terms at first; they are hardly worth their food the first year.

565. Is not it the practice for the Government to employ them for a time at first, and then send them to settlers?

The

The practice, when I was there, was to send them to settlers as soon as they could get settlers to take them.

566. Earl *Stanhope.*] Do I rightly understand you, that provisions are supplied to the labourers in addition to their wages?

Not only provisions, but you must have house-room for them, and knives and forks, and chairs and tables, and every accommodation which a man requires; and those things are not very easy to be had at the moment in a new settlement.

567. All those things are supplied in addition to the wages, are they?

Yes; the man lives in your house as an in-door servant.

568. Lord *Colchester.*] Captain FitzGerald, the late governor of the colony, who has been examined as a witness here, was asked whether ticket-of-leave men were allowed to choose their own masters; he replied, "Yes, if they wished it; but whenever they refused a reasonable rate of wages, I insisted upon their going." He was asked, "Who judged of those causes of complaint?" He replied, "I judged of them; they were brought before the Colonial Secretary, and he forwarded them to me, and I caused an inquiry to be made into the facts of the case; and if it appeared that the man had refused, for instance, 1 *l.* a month wages, or 2 *l.* a month wages, I insisted upon his going; instances have been known of their refusing even 2 *l.* a month wages." Do you consider that that would be reasonable wages?

I consider 2 *l.* for a convict who has recently arrived in the colony to be high wages. I was myself the means of proposing that 1 *l.* a month should be considered fair as a minimum between the settler and the convict at that period.

569. Does it consist with your knowledge, that ticket-of-leave men were allowed to choose their own masters?

Yes; I have myself had two convicts in my employ, and was very well satisfied with them; I do not know how far they were allowed to choose. I wrote to Captain Henderson to say I was desirous to have a man if he could recommend one to me; he recommended me one, and I was very glad to have him. Soon after he came to me, another man came and said, that his brother was in my employ; that he was himself languishing in the depôt, and if I would allow him to join his brother, it would be a very great advantage and comfort to him: I told him I was glad to find such a state of feeling existing, and if he wished to join his brother he might go to my establishment, and as soon as he could do work he should receive wages, according to his ability. He went there, and the two brothers lived most contentedly, cheerfully and pleasantly; and more zealous, more honest and more industrious workmen I never had.

570. Earl *Stanhope.*] The Under Secretary of State, Mr. Elliot, was examined before the Committee of the House of Commons, and he was asked the question, "Generally speaking, what has been the conduct of the convicts sent to Western Australia?" Mr. Elliot says, "Their conduct has, in the main, been unexceptionable." Speaking generally, should you concur in that favourable statement?

Speaking with respect to the time that I was in the colony, I should, certainly. There were, of course, offences among them, as there must be among any population, and, as might be expected, to a greater extent among them; but, generally speaking, their conduct was very good: there were no serious offences to complain of, no great robberies or violence, or anything of the kind while I was there.

571. Did those who were admitted into private service generally turn out well?

Generally, I should say so; I do not recollect hearing many complaints; there were some. About the year 1854 there was an expedition in the colony, which was a great disappointment to many: a surveyor was sent to explore a new part of the country; his expedition was certainly a very sad failure in many respects.

572. Lord *Colchester.*] A question was put on a former day to Captain FitzGerald, which I will read to you, and his answer to it: "Have you seen a recent report from a geologist, giving a very discouraging picture of the agricultural capabilities of Western Australia?" "The land is generally not considered equal to that in South Australia, nor equal to that in Melbourne; but we found that

*G. F. Moore, Esq.*
24th June 1856.

by cultivation it afforded us good crops of wheat and of barley and of oats, and potatoes we even exported to South Australia"?

I quite agree with that; I have seen land which bore a succession of crops of wheat for 15 years in succession without manure being put upon it; I do not mean to say that that is general in the colony; but upon the banks of the River Swan there are certain tracts of land which we call alluvial flats; upon those alluvial flats I have, as I have said, seen a succession of crops of wheat for 15 or 16 years without any manure being put upon them.

573. *Chairman.*] Is there much land of that quality?

There is not a great deal of that quality, but upon the banks of the rivers where the alluvial deposit has been made there is land of that quality. There is a great deal of upland in the colony which is clay land, or rather sandy loam land, which is capable of cultivation, and which in this country would be thought very good land, and which, with an ordinary amount of labour and manure, would give excellent crops of wheat.

574. Marquess of *Salisbury.*] You cultivated some land yourself, did not you?

To a considerable extent.

575. What was the average return of your wheat crops per acre?

Throughout the colony the average would have been about 16 bushels to the acre; I had upon some land about 24 bushels, and upon some other portions of land there would not be more than 14 or 15 bushels; in that country we consider 20 bushels to the acre to be a fair return.

576. Have you taken into consideration the relative position of the free emigrants and the convict labourers; do you think the convicts are better off than the free emigrants?

I think the style in which the convicts lived in their depôt or establishment was, perhaps, better than that in which common working free labourers would have been able to indulge.

577. I will read to you a passage in the evidence, which is to the effect that there was a difference of opinion whether or not the convicts were placed in a better situation than free emigrants, inasmuch as they had rations and medical attendance in addition to the 4*d.* a day; the argument against this was, "that those men had to repay the expense of their passage, in certain proportions, which is very true; they had to pay 7*l.* 10*s.* out of their wages, and that justified the ticket-of-leave man in demanding higher wages; so that, ultimately, the expense of the passage fell upon the settlers, because the man said, 'I cannot take less than 10*l.* or 12*l.* a year, inasmuch as I have to pay 5*l.* this year for my passage'"?

That gentleman, whoever it is, has taken a view of the subject which has often presented itself to my mind. A convict was told, as soon as you can repay to the Government the expenses of your passage, you shall be presented with a conditional pardon; therefore the convict was under every inducement to exact from the settler a high rate of wages; it was therefore he demanded this rate of wages, and he refused even 2*l.* a month. Now 2*l.* a month would have been considered very good wages by a free independent settler when I was there. The reason was, they were told, "As soon as you can repay to us the expenses of your passage, you shall have a conditional pardon;" so that they endeavoured to exact from the settler a very high rate of wages. The settlers on the other hand, said, "We had, as we thought, an understanding from the Government, that none of the expenses of the convicts were to be thrown upon our settlement; but this is an indirect way of screwing out of us the expenses of the convicts." It was on that account that the convicts were not so popular with the settlers as they would otherwise have been.

578. Were there a good many comforts attached to the depôt of the convicts in comparison with what they would have possessed had they been scattered over the country, and engaged in labour?

I consider that they lived in their depôt in a style superior to that in which ordinary working settlers could indulge. They had milk, and they had meat nicely cooked, and everything very good. Now in a new settlement you cannot generally

generally have those things; but even at the best you are obliged to live a little roughly. When I went there first, I went as a settler, and lived as a settler, and I know what it is. There were many comforts which people think absolute necessaries here, but which I had to deny myself.

579. *Chairman.*] So that convicts are under no great inducement to engage themselves, when they are so well provided for by the Government?

The convict knows that if a settler was dissatisfied with him he would be sent back to his depôt, and that he had there a very good style of living provided for him. As far as my recollection serves me, he was often in a better position if he went back to his establishment, and did not work as a servant, than if he remained with the settler. Much depended upon the means, position and habits of the master whom he served.

580. When he was employed by the Government had he no work to do?

I believe there was work to be done, but whether they were always employed upon it is a question I cannot answer.

581. Lord *Colchester.*] Were not they paid if they did work?

I think at one time they were; but I would rather refer that question to Captain Henderson.

582. Marquess of *Salisbury.*] When you first went out to the colony, were there free grants of land?

They were free in this way: the terms held out by the Government were, that to those who arrived before the end of the year 1830, and took with them a certain amount of capital invested in such a way as to be applicable to agricultural purposes, or purposes of productive industry, land should be assigned, in the first instance. The Government said, when the settler has proved to us that he has expended a certain amount of that capital upon the land, we will give him the fee-simple of it; in that way, many were induced to go before the expiration of the year 1830; the terms were so tempting that I was myself induced to go to that colony, the terms held out being more tempting than in any of the other colonies at the time.

583. Did any evil arise in that colony from those grants of land?

That is a very difficult question to answer. In this way I think evil arose: many persons went out, even from the City of London, and obtained land, who knew nothing about land; a great many ploughs, and harrows, and carts, and agricultural implements were taken out there by persons who not only did not know how to use them, but had no means of getting them upon their land. Those persons who took out ploughs and harrows and carts often forgot that they had not horses and bullocks with them, and therefore a great many remained on the beach, and were buried under the sand, and were never turned to agricultural purposes.

584. Did those persons get grants of land?

Yes, and many of them made terms afterwards with settlers, who were more acquainted with the subject. "If you will go upon my land, and do the location duties, as they were termed, for me, I will give you a portion of the land in fee-simple." In that way many persons acquired land by going upon it, and performing the location duties for those to whom it was first assigned.

585. Earl *De Lawarr.*] Did they get the land in fee by that means?

As soon as you could prove you had made a certain amount of expenditure upon the land, you got it in fee; in that way I got a considerable tract of land from the Government, as well as purchased a considerable tract: capital was required to be expended upon the land, or in buildings connected with it, to the amount of 1 *s.* 6 *d.* an acre.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Friday next, half-past Eleven o'clock.

# *Die Veneris, 27° Junii* 1856.

LORDS PRESENT:

| | |
|---|---|
| Lord Privy Seal. | Viscount Dungannon. |
| Marquess of Salisbury. | Lord Ardrossan. |
| Earl Stanhope. | Lord Colchester. |
| Earl De Lawarr. | Lord Wharncliffe. |

THE LORD PRIVY SEAL in the Chair.



Mr. RICHARD McBRYDE BROUN is called in, and examined as follows:

586. Earl *Stanhope.*] YOU have just returned from Western Australia?
I have.

587. How many years were you resident in the colony?
I have been 25 years uninterruptedly.

588. What post did you fill there?
A Government situation; I was Government Resident and Collector of Customs at the Port of Freemantle.

589. What number of convicts are now stationed in Western Australia?
I believe there are about a couple of thousand, including ticket-of-leave men and conditional pardon men.

590. Had you occasion to employ any in your own service?
No.

591. Have you had opportunities of observing their conduct when employed by others?.
Yes; I have been visiting magistrate at the convict establishment ever since it has been established; I was Chairman of the Board.

592. What have you considered to be the general conduct of the convicts?
Generally speaking, I should say they are very well conducted.

593. Then would you concur in the answer which I see the Under Secretary of State for the Colonies gave before the Committee of the House of Commons; he was asked, "Generally speaking, what has been the conduct of the convicts sent to Western Australia?" Mr. Elliot says, "The conduct of the men has been unexceptionable." I understand you to concur, generally speaking, in that representation?
Most certainly.

594. Did you take any part in the first petitions that were presented from Western Australia, with respect to obtaining convicts; did you either support or oppose those petitions?
I merely presided as Government Resident of the town at a public meeting which was called upon the subject, but I did not vote either way.

595. What is the present feeling of the colonists in general upon this question?
I think in favour of the reception of convicts, to a certain extent.

596. Provided its proper limits be not over-passed?
Certainly. The colony is not in a position to receive a very large number.

 597. *Chairman.*]

*Mr. R. McBryde Broun.*

27th June 1856.

597. *Chairman.*] What number do you think could annually be received?
One thousand annually, certainly.

598. Then, in 10 years, you would have 10,000?
Not 10,000 in a state of penal servitude, because many obtain their conditional pardon, and frequently leave the colony; therefore their place would be supplied by others. There are many that are at present occupiers of land, and employers of servants themselves.

599. You think that, in 10 years, you could safely estimate, for the convict class, forming so large an ingredient in the population as 10,000?
Yes, I think so.

600. What is the amount of free population in the colony of Western Australia?
About 11,000, I think.

601. Should you be prepared, with a population of 11,000, some of whom are already of the convict class, in the course of 10 years, to superadd a population of 10,000 from the convict class?
Judging from the experiment since the colony was made a penal settlement, I should think so.

602. What number of free emigrants come to Western Australia?
Last year we received two ships with emigrants, but I do not remember the number; this present year we have received none.

603. Are you aware that there has been considerable difficulty in employing those that have come?
Yes; they were not a class of people that were required by the settlers.

604. You are aware of the great temptations which other parts of the continent of Australia offer, especially to free settlers, to settle elsewhere?
Yes.

605. The natural attractions of Western Australia are not sufficient to enable it to compete with other parts?
Certainly not.

606. So that we cannot look for any considerable augmentation to the free class from voluntary emigration?
I should think not.

607. Earl *Stanhope.*] When you speak of there being less attraction to Western Australia than to other settlements upon that continent, has it occurred to you to consider whether the fact of convict labour, affording the means of pursuing the public works, and of carrying on the material welfare of the colony, is in itself a great recommendation to Western Australia as compared with other colonies where convicts are no longer received?
I think so; but still in other colonies they find rich minerals, and that in a great measure has reduced our free population. That does not apply to all the colonies, but it applies to New South Wales and Victoria.

608. Would it apply, to any great extent, to Adelaide?
Not so much.

609. Earl *De Lawarr.*] Is not the colony of Western Australia capable of very great improvement?
Yes, I think it is. There are public works that very much require to be constructed; and I believe Captain Henderson, the Comptroller-general, has sent home an estimate.

610. If those improvements went on, would not the attractions for free settlers considerably increase?
They might.

611. Viscount *Dungannon.*] What is the nature of the public works required?
Principally a breakwater, and roads and bridges.

612. Can those be carried into effect well without the assistance of convict labour?
No, certainly not.

613. Therefore you think that a supply of convict labour, to the extent that you have mentioned, 1,000 a year, would be beneficial to the colony?
I have no doubt of it.

614. And the settlers would employ them?
As regards employing them there has never been any difficulty as yet; they all undergo a certain servitude before they get their ticket of leave.

615. And you apprehend that those who were well conducted would ultimately either leave the colony for other parts, or else merge into settlers?
Yes; many that I know have left, and many have bought small sections of land, five and ten acres, near town sites, and are doing very well, and employ ticket-of-leave men; several have married young Irish girls.

616. Have any of those females married with the convicts who have got tickets-of-leave?
Several.

617. That is not an uncommon thing?
No, certainly not; I have known and heard many instances of it.

618. Those female emigrants came out mostly for service, did they not?
Yes.

619. *Chairman.*] Were they mostly Irish females that came out?
Yes.

620. Marquess of *Salisbury.*] You say that free emigration to Western Australia at present is nearly at a stand-still?
There is very little at present.

621. Is it diminishing rapidly?
It has stopped latterly altogether; I do not know from what cause. I believe that applications have been made from the colonists for some emigrants; but it has stopped, certainly: we had only two vessels last year.

622. When you first went to the colony had you any land assigned to you?
Yes, I had, as a Government servant; I had an order to select a certain number of acres, which I took.

623. That was done, about 20 years ago, to other settlers, was it not?
Many of the officers received no pay, and this was as compensation, in some measure, for their services; and many settlers came who received so many acres for such property as they imported into the country; and some, I believe, have really had land allotted to them who only took money.

624. At that time there was no price fixed for the assignment of such land, but there was only the condition that so much capital should be taken in proportion to the quantity of land assigned?
Land was allotted at 1 *s.* 6 *d.* an acre in those days.

625. Is it valued according to its quality now?
According to its quality, and according to its location.

626. How is the value of the land calculated now?
In districts near the sea-coast it is not worth a penny an acre; it is nothing but a barren sand, with low scrub, not fit for anything. When you get to the agricultural and grazing districts, of course the land is more valuable.

627. Who sets the value upon it?
There is no person to put a value upon it.

628. Lord *Wharncliffe.*] Is there no Commissioner of Crown lands, the same as in the other colonies?
No.

629. Marquess of *Salisbury.*] Who determines what price an individual shall pay for his land?
There is a uniform price of 1 *l.* an acre, which the Government have put upon it; 1 *l.* an acre is the fixed price.

*Mr. R. McBryde Broun.*

27th June 1856.

630. Then, it has been raised from 1 *s.* 6 *d.* an acre to 1 *l.*?
Yes.

631. Has that had any effect in preventing emigration?
I do not know. I think the colony has always been rather in the background. I do not know that that has been the principal cause; but certainly the land is not worth anything like 1 *l.* an acre. If you take up a grant of land of 10,000 acres, probably one-third of it, or nearly half of it, is not fit for much.

632. *Chairman.*] Is the sheep-feeding land sold at the same price?
Yes; but it is generally let on leases for eight years, under Classes A., B. and C.

633. Marquess of *Salisbury.*] How is the value of that fixed?
That was done by the Legislative Council; they pay so much for a license, I think it is 5 *l.*, which they pay to the colonial revenue; and then they pay 10 *s.* for every 1,000 acres that they take up; that is merely for grazing purposes and squatting.

634. That is upon lease?
Yes.

635. When does that return to the Government?
The license is paid annually; but the lease extends for eight years; I think 14 years, in some cases.

636. Lord *Wharncliffe.*] Is it not 14 years in the unsettled districts?
I think it is.

637. Marquess of *Salisbury.*] If the expense of obtaining land in Western Australia was diminished, would that have the effect of encouraging free emigration?
That I am doubtful of; many have a great dislike to come to a penal settlement. But it would certainly be a benefit to the colony if the land was reduced to a lower price than it is at present. There is no inducement to persons to settle in the colony at the present high price of land.

638. How would it be a benefit to the colony?
I think that many settlers and conditional-pardon men at present who lay by a little money would be in a position to buy land, if they could get it at 10 *s.*, instead of 1 *l.*

639. Would that have the effect of absorbing them in the free population?
I think it is very likely that it would.

640. Would the colony, in consequence of that, be able to receive more convict labour?
I should not think so, beyond what I have stated.

641. You do not anticipate any increase of free emigrants that would enable it to receive more convict labour than that?
I think not.

642. *Chairman.*] Suppose 1,000 convicts a year were imported, nine-tenths of them would be males?
Yes; but latterly they have been sending for the wives of those convicts who were married.

643. As a reward for good conduct?
Yes; but I believe there is some regulation enabling them to be sent for. I believe that upon any convict sending his name to the Comptroller-general, and expressing a wish to have his wife and family, they are sent for, and they are sent out.

644. At the public expense?
Yes: but the convict himself is to reimburse the Government the expense of sending them out.

645. To what extent may this influx of females go?
It is only within the last two years that any of those women have come out.

646. It is stated that during the last year—"We" (that is, the Emigration Commissioners) "sent to Western Australia, under the recommendation of the Governor, 119 persons, consisting of the relatives of convicts in the colony." Some of those would be wives, and some children?
Yes.

647. But still a large proportion of those 10,000 that you would propose to have sent out in the course of 10 years would be without wives?
Many would.

648. Unless you were able to provide a large balance of female population from other sources you would have this result, that those men could not become fathers of families, and therefore would not be likely to be permanently useful to the colony?
I think not.

649. Lord *Wharncliffe.*] What is the average number of female emigrants that come out to Western Australia?
I do not exactly recollect the number that come out.

650. You say that the convicts themselves pay for the expense of bringing out their wives and families; how is it, generally, that they get into a condition to enable them to do so?
There are stoppages made from their pay; if they are on public works there is an allowance made for good conduct.

651. Towards providing for the bringing out of their families?
Yes.

652. What would it cost a man to bring out a wife and three or four children?
I believe the average rate for the females that come out is about 15 *l.* It is done by contract, I think.

653. Viscount *Dungannon.*] Is there a great deal of land in the colony that could be advantageously cultivated?
I think since the convicts have been there, there is; cultivation has increased twofold every year.

654. There is a great deal still out of cultivation?
A very great deal; before the convicts came out the farmers in the agricultural districts were not in a position to break up land; now, in travelling through the district, you see many acres in fallow year after year which you never saw before.

655. Could those other lands, now waste, be readily brought into cultivation, without the assistance of convict labour?
I do not think they could.

656. Earl *De Lawarr.*] Do you think that the colony generally would be desirous of such an addition of convict labour as you have mentioned?
I think, generally speaking, in every district the feeling is in favour of it.

657. Within the limits you have stated?
Within the limits I have stated.

658. *Chairman.*] Has there been any dissatisfaction with the class of convicts that have been sent there?
There was dissatisfaction in one instance of convicts that came from Ireland in a very bad state. We have generally received men that have undergone certain imprisonment here on public works, able-bodied men—men who have conducted themselves here so as to entitle themselves to tickets-of-leave after six months' servitude in the colony.

659. Had there been any increase latterly, just before you left the colony, in the amount of convictions for fresh crimes among the convict class?
In the last six months they had been a little on the increase.

660. When did you leave the colony?
On the 25th of February.

*Mr. R. McBryde Broun.*

27th June 1856.

661. Viscount *Dungannon.*] Was the average number of convicts who were convicted of any crimes after they had gone out small?

Considering the number, I should say it was small; there is a large number out on ticket-of-leave, I believe 1,200.

662. Have some of those ticket-of-leave men become useful members of society in the colony?

Many of them have, and are doing very well; I know, in the town of Freemantle there are three or four that have purchased 10 acres of land, and are employing men under them.

663. Earl *De Lawarr.*] Is it necessary that a convict should have repaid the whole amount of his own passage before he can apply for the passage of his wife and family?

No, I do not think that it is.

664. Viscount *Dungannon.*] Are they called upon to repay the expense of their own passage?

They are not entitled to receive a conditional pardon till the full amount of the passage-money is paid.

665. *Chairman.*] Has that been complained of by the settlers as imposing upon them the necessity of giving higher wages, in order to enable convicts to repay those expenses?

It may have some effect, but I am not aware of it; I never heard that it is so; it is very likely that a convict might give that as a reason for demanding higher wages, but I am not aware that it is so; I have heard of such things, but I do not believe it.

666. Lord *Wharncliffe.*] Do not the Government fix the rate of wages for convicts?

Yes, for ticket-of-leave men; the rate is 1 *l.* a month; a ticket-of-leave man is bound not to refuse 1 *l.* a month.

667. Marquess of *Salisbury.*] Besides his food?

Yes, besides his food; before, 1 *l.* a month was placed as the minimum price; it was calculated, from the high price which they had to pay for their clothing, that 1 *l.* a month was considered a fair remuneration.

668. *Chairman.*] Will you state the district of the colony which appears to you most advantageous for settlement; have you travelled widely over the colony?

I think the Champion Bay District. Once a year I have gone over to York District, and have been in the Toodyay District, as well as to the southward.

669. What are the parts of the colony which, in your opinion, are the most favourable for penal settlements?

At present the Toodyay, York and Wellington Districts absorb most labour; but latterly the mining district in the north has employed a great number of men; I think the mining district is very likely to absorb a large proportion of them up to Champion Bay and Port Gregory. There are large numbers employed now up at the mines.

670. Marquess of *Salisbury.*] What are the mines of Western Australia?

Lead and copper; but they have not capital at present to work them; I believe they are endeavouring to get a company to do it.

671. Earl *De Lawarr.*] If they succeed in getting a company, and in working the mines prosperously, would not that require a considerable increase of labourers?

It would employ a considerable number of men. The Port Gregory and Champion Bay Districts is reported to be quite mineral districts.

**The Witness is directed to withdraw.**

Mr. WILLIAM HILTON HOVELL is called in, and examined as follows: *Mr. W. H. Hovell.*

27th June 1856.

672. Lord *Colchester.*] YOU have been resident a good many years in the Australian colonies?
Forty-three years.

673. Chiefly in New South Wales?
Yes.

674. When did you return?
About a month ago.

675. What was your principal occupation whilst you were residing in Australia?
The first six years I was a master mariner and ship-owner; after that I became a proprietor of land and stock; and I also have held an appointment under Government as a Commissioner of Crown Lands. I am still a magistrate for New South Wales, and Victoria also.

676. During your stay in the colonies did you make very extensive journeys; did you make, among others, a journey of exploration from Sydney to Port Philip?
I did; that was in 1824–5. Mr. Hume and myself made a journey from Sydney to Port Philip and back.

677. Are you acquainted with the country at Moreton Bay and to the north of Moreton Bay?
I have been to the north of Moreton Bay, but not to that place.

678. Earl *Stanhope.*] More than once?
Only once.

679. Lord *Colchester.*] How far did your journey or voyage extend?
Only to Torres Straits in command.

680. Do you know the neighbourhood of Cape York?
I have sighted it, but I have not been on shore there.

681. You have had some experience, I believe, in the formation of penal settlements and the management of convicts?
In 1826 the Government sent me to assist to form a settlement at Western Port, that is a few miles from Port Philip, in the province of Victoria. The party consisted of 20 soldiers and 20 convicts.

682. Supposing that it was considered desirable to form a new penal settlement in any part of New Holland, what part should you recommend?
I think the head of the Gulf of Carpentaria a very good spot; I do not know anything of it, but from Dr. Leichardt and his brother travellers; he consulted me upon matters of that kind. I have always heard him speak in the highest terms of the head of the gulf as a fit place for a settlement.

683. Dr. Leichardt made a journey across from Moreton Bay to Port Essington, in which he followed the route of the greater part of the coast?
He headed the gulf.

684. And to your knowledge he recommended some portion of that as a site for a penal settlement?
He said it was well adapted for the residence of Europeans.

685. If a penal colony were established there, upon what principle should you recommend its being established?
I would recommend that the convicts should be sent, in the first instance, to clear the land and to make improvements, building barracks and stores, and places for the officers to reside in, and making it ready for immigration.

686. Earl *Stanhope.*] You propose that the convicts should be made, as they were called, the pioneers of civilization?
Just so.

687. Lord *Colchester.*] Then, would you recommend that, after those preliminary

*Mr. W. H. Hovell.*

27th June 1856.

liminary steps had been taken, there should be an admixture of free settlers with the convicts?

Yes.

688. Do you recommend that, supposing those convicts to be persons who have served a portion of their time in England so as to have undergone some reformatory discipline, they should be from time to time assigned as labourers to the new settlers?

Men that have been long in gaols in England are not the best persons. The sooner they are sent from England after conviction the better.

689. Viscount *Dungannon.*] What is the reason of your objecting to their having been in gaol first of all?

The whole system, in my opinion, is faulty. You have proof of that when these people are turned loose from the gaols on society.

690. Lord *Colchester.*] Are you acquainted with the modern system of treatment of convicted offenders in this country?

I am acquainted with it so far, that I think that to seclude men, and keep them shut up, is not the best way to reform them.

691. *Chairman.*] Have you had experience of those who have passed under the system employed on the public works at Portland, where they have not been in seclusion, but have worked together, under control?

I do not know anything of those in England; it is those that have been sent to Van Diemen's Land that I know most about, and they were certainly a wretched set.

692. What previous process had they passed through?

After being in England for some time, perhaps a year or two, shut up there, they would be sent away to Van Diemen's Land; and after they had been there some little time, there would be a sort of ticket-of-leave granted to them, and then it would extend to some other indulgence which enabled them to go across to Port Philip. Those were the people that did all the robberies and murders that were committed there.

693. Earl *De Lawarr.*] After they got a ticket-of-leave?

Yes; and the Legislature of Victoria were obliged to pass an Act against it in self-defence.

694. Lord *Colchester.*] You would prefer the convicts to be sent out directly after sentence?

Immediately they are convicted; the sooner they are sent from England the better.

695. But whatever the way in which they were sent, you would recommend that they should be, from time to time, assigned to free settlers in the colony?

Yes; immediately the settlers made application for servants, those that the Government had should be assigned to them.

696. Would they be assigned at wages, or would their labour be gratuitous?

No; the way in which it was done in New South Wales was this:—In the first instance, it was ordered that the master should give the man clothes and little indulgences of tea and sugar, and things of that kind, to the amount of 10 *l.* a year. That was done away with, and then the master was not bound to any wages. He was bound to clothe the man; that is to say, to give him two or three suits of clothes in a year, and tea and sugar, if he deserved it. Some masters, however, found it more to their interest to pay the men as well.

697. Would you recommend that female convicts should be sent out to a new colony?

Most assuredly, but not immediately; not to go out with the first settlement. I would say, do not send them till there is some occupation for them—till there is a place to receive them; then, probably, some free settlers would go out, and they would then be assigned to them as servants. The only servants we could get when I first went to the colony, and for a number of years after, were women of that class.

698. Viscount *Dungannon.*] I understand you to say that you disapprove of the silent system that is adopted in the convict prisons in England?

I do.

I do. I think it would be better to send them away at once, immediately after their conviction; that was the case formerly. As soon as a man was convicted he would perhaps go on board the hulks for a short time, and wait a vessel being taken up by the Government, and then sent away to the colony.

699. Lord *Colchester.*] Were the convicts of whom you have been speaking assigned?

If the man was a seven years' man, he would have to serve me for four years. A 14 years' man would have to serve five or six years; and a man transported for life would have to serve perhaps about seven or eight years. If during that time his conduct was correct, there would be no difficulty in getting his ticket-of-leave. He would then be allowed to hire himself to another master.

700. What was the general moral conduct of those persons who were so assigned?

There would be some bad, as a matter of course; but the greater part of them would be good, knowing that all their dependence rested upon their good behaviour.

701. Generally speaking, did they turn out useful members of society?

Generally speaking, they turned out very well after they became free, and many of them became the greatest possessors of wealth in the colony.

702. In the exploring journeys which you made, were the convicts often employed in different exploring parties?

The six men that Mr. Hume and myself had for our 16 weeks' journey were our own assigned servants, who after they returned had what they termed their "indulgence;" that is to say, they had their ticket-of-leave granted.

703. You found that they were trustworthy persons?

Yes; they were the best description of labourers that we had: what was termed "an old hand," was worth two freemen that had just come to the colony; they understand their work.

704. Viscount *Dungannon.*] Was that sort of labour essentially necessary in the colony; were there a great many important works that could not have been carried into effect without the aid of convict labour?

They could not have been done without it; we had not free labour at the time I speak of.

705. Lord *Colchester.*] Considering the attractions now possessed by the colonies which produce gold, do you consider that it would be difficult to induce respectable free emigrants from the mother country to give the preference to a penal settlement?

It would depend upon the sort of advantages that would be held out by the Government. If the Government said, "Here is a new colony, we will throw it open now for free emigration, and that at a very cheap rate;" or if the Government were to give them the land in the first instance, as was the case in New South Wales, and to tell them also that there would be no difficulty in getting labour, that each person would be allowed so many convicts, according to the quantity of land which they possessed, I should say that there would be no difficulty in having emigration; but of course it would depend in a great measure upon the advantages of the spot that could be selected for the purpose.

706. Earl *De Lawarr.*] And upon the amount of encouragement given by the Government?

And upon the amount of encouragement given to it; I should say, give them the land, as was formerly the case in the old colonies.

707. You recommend that the land should be either given gratuitously, or sold at a very low price?

I should say, give them the land in the first instance; I would just go back to the old system. I may mention, that in New South Wales that was one inducement to me to go to the colony in the first instance, that I knew I would have my land given to me; I also knew that my wife and family, together with six assigned servants, would be victualled from the store for 18 months; for that was part of the conditions in those days; we also had cattle lent us from the Crown herds, and seed wheat for the first crop.

 708. Therefore,

*Mr. W. H. Hovell.*
27th June 1859.

708. Therefore, of course, you had very great advantages over all the settlers who at present go to Western Australia or any other colony in Australia, who are obliged to purchase the land at a pound an acre, and receive no assistance whatever from the Government?
The price of the land is much too high.

709. Do you suppose that if the land had been offered only upon those terms to the earliest settlers in New South Wales, and if they had had none of the other advantages which you have mentioned, the colony would have flourished in the way that it has done?
There would not have been half the number of people that there are at present.

710. *Chairman.*] For what length of time were those facilities offered to the settlers in New South Wales, and when did they cease?
I do not remember the date now; I think it would be 35 years back.

711. Then the augmentation which has taken place in the colony for 35 years past has been independent of any assistance of this kind from the Government?
Yes; at first, when those indulgences were taken away from the settlers, the Government said to the settlers coming out, "We will give you 1,280, or we will give you 2,500 acres of land, according to the means you have, but no other indulgence, that is to say, no victualling."

712. I understand that the encouragements which you suggest would be to attract people of capital; but how would you attract free labourers, who would have to compete with the convicts supplied without wages; how would you get a free population of the lower class?
I have not given that a consideration, but I would say that those prisoners would become free in time, and would form the working body. The emigrants who went there would, of course, come into competition with the others, as far as labour goes; but then they would say, "But here is land, and if we can only work and provide a small sum, we can get land for it at a very low figure." Or the Government might say, "We will give you some 20 or 25 or 30 acres of land," and hold out an inducement of that kind to them.

713. But if the Government gave them land, and they became labourers only on their own land, they would not be contributing to the labouring class of the population?
They would only be improving their own property; they themselves and their families would have to do the work required upon it.

714. Is there not always in itself great difficulty in getting adequate remuneration for free labour where there is penal service supplied at the public expense?
No, I have never seen any difficulty myself in that matter; I would prefer the convict labour, for this reason, that they are what we term handy men; that they can turn their hands to anything. When the free emigrant arrives, he has to be taught every thing. If you tell him to do anything, you must stand over him all the time he is at work. Now one of the "old hands," as they are called, knows what he has to do; you tell him what he is to do, and he goes about it, and does it.

715. My question had reference to the difficulty of securing adequate remuneration to free labourers where there is convict labour supplied by the Government; would there ever be attractions to free labourers to go to any considerable extent to a colony where there is convict labour supplied gratuitously, or at a low rate?
That was an objection that they had in New South Wales, and so it was in Van Diemen's Land: perhaps in Van Diemen's Land that was one reason why they did not get free labourers, because they had to come in contact with the convicts. But I have not given that question consideration: I was considering only the best plan for England to dispose of that class of persons that she does not want. The more extensive you make the settlement the better; and when one settlement is formed, then go to another part.

716. Lord *Colchester.*] I understand you to mean, that if such a colony as you have been speaking of were formed, partly of convicts and partly of free settlers, the free settlers would be small proprietors, and the convicts would be their hired servants?
Yes.

717. That is a system which you think would be likely to answer?
Yes; it is a system that worked very well in New South Wales till we became, as we thought, too large for it, and then we all at once kicked against it to our own disadvantage; in fact we did not find out our mistake till it was too late; the cessation of transportation was too sudden; we had not free labour to supply the place of the convict.

718. You are speaking of the system you would recommend in a newly-founded colony?
Yes.

719. *Chairman.*] In that case you would have a colony almost entirely composed of criminal elements?
With the exception of free emigrants who went out to purchase land there.

720. Lord *Colchester.*] If land was either given gratuitously, or sold at a very low price, do you consider that considerable capital would be required, in order to cultivate the land advantageously?
No. If you tell a man "You shall have 25 or 30 acres of land on landing," there is an inducement for a man of little or no means to go out.

721. With respect to the gold diggings, are you able to state what was the number of persons who returned from the diggings unsuccessful, and willing to go back to agricultural labour?
Hundreds returned after having gone to the diggings, and having employed themselves there for some time: but you could scarcely form an idea what injury it has done them; it unfits a man for steady industry: an unsuccessful digger becomes a dissatisfied man, let him go where he will. I have been at Ballarat; I was there last November; I think at that time there must have been about 25,000 or 30,000 people, and I am quite certain that not one-third of that number were employed; there were great numbers of fellows idling about, living upon those who were successful, and picking pockets, and so on.

722. Therefore it is not improbable that many persons who have been induced by the report of the great fortunes made at the diggings to leave Western Australia and other parts for the gold fields, would be very glad to return, if they had the means of doing so?
I dare say many would if they could; but still they are dissatisfied.

723. Lord *Wharncliffe.*] Is it not the fact, that those people almost always return to their colonies; the Adelaide men particularly?
The Adelaide men do; so I have been told.

724. And the New Zealand men?
I do not know whether they do, or not.

725. Lord *Colchester.*] Supposing a new colony to be placed in the Gulf of Carpentaria, can you say whether it would be likely to attract any commerce?
I cannot.

726. Viscount *Dungannon.*] You mentioned that there was a great difference between the convicts and free emigrants, as regarded handiness and readiness to labour; how do you account for that difference?
Because the one has been trained in the colony, and the other arrives fresh from England.

727. But the free labourer has been used to labour in England?
He may have been accustomed to using the pick and shovel, and things of that kind; but we are obliged to employ those men at everything. The man must be a fencer, and he must be a builder; he must do farm-labour, a herdsman or a shepherd, as required.

728. You have a great deal of trouble in training those men?
We have in teaching a new hand.

*Mr. W. H. Hovell.*
27th June 1856.

729. But a convict, on first coming there, may be equally unable to perform all those various kinds of labour as a free emigrant?
Then his brother convicts will put him in the way of what is to be done, and assist him.

730. You mean that he speedily acquires a habit of doing those things to which he has not been hitherto accustomed?
He does. We generally find the convict to be a more intelligent man than the free labourer.

731. Are you alluding to such convicts as may have been transported from the rural districts in England, or to those convicts who may have been transported from London, and other great cities, such as pickpockets, and persons of that class?
I have found the London pickpocket as useful a man as any that we have had; his intellects are sharpened, and it is astonishing how he adapts himself to his circumstances.

732. Have you had many of them in your employment?
Yes; I have had hundreds of men of one class or another, English, Irish and Scotch.

733. Earl *De Lawarr.*] Supposing the inducements which you have suggested to be held out to free settlers, do you think that they would be deterred from emigration by the apprehension of having to rely principally upon convict labour?
I think that would be an objection in the first instance; but it would wear away.

734. Would that objection be overcome as the colony became more settled and improved?
I think so.

735. Viscount *Dungannon.*] Would not settlers, on first going out, necessarily have work to execute which they could not carry out without having the benefit of convict labour?
Persons of course would go under the expectation of having convict servants assigned to them as soon as they got their land.

736. And, in fact, they could not do well without them?
They could not do without them.

737. Lord *Colchester.*] Beyond the works upon the settlers' own land, are there not public works, roads and bridges, and other works of that kind, which can only be done by a large body of labourers, works, in fact, which would be beyond the means of any private individual without assistance?
There are many things which must be done for the benefit of the colony, such as making roads and bridges; other things are required, many of which should be done before the colony is thrown open for emigration.

738. In New South Wales, were not there some very fine roads made over the blue mountains which opened out the colony very advantageously for settlers?
Yes, they were made entirely by the chain gangs.

739. Could such roads have been made by the settlers themselves?
They could have been made, but at such an expense that the colony would not have liked to have gone to it. That is one thing in which we feel the want of convict labour; and that is the reason why we called out against convict labour too soon, and that we have not those improvements made in the colony that we otherwise should have had.

740. Earl *De Lawarr.*] Then is it your opinion that convict labour is almost a necessary ingredient in the formation of a new colony?
South Australia and many parts of New Zealand have been established independent of convict labour; that is to say, there was no convict labour at all; they have gone on by themselves; and my answers upon this subject have reference to colonies that are formed of that class of people.

741. Lord *Wharncliffe.*] Are not the public works much less advanced in those colonies in which they have not had convicts?

I do

*Mr. W. H. Hovell.*
27th June 1856.

I do not see how they can get on without them; I should say that those men are a necessary ingredient to new colonies, although perhaps they have not been adopted at Adelaide or New Zealand; still they are necessary, because they cannot get public works up without them.

742. *Chairman.*] Then, how have so many public works been executed in South Australia or in New Zealand, where they have no convicts?
I believe there has been very little done in those things.

743. Then those colonies have thriven without public works?
They have gone on without them, but how they have succeeded I cannot tell.

744. But you think it is of importance, in the foundation of a new colony, to have an artificially cheap supply of labour, such as convicts furnish, in order to enable you to carry out great works which are advantageous at the foundation of such a colony?
I think so in a new colony.

745. Earl *Stanhope.*] Do you ascribe a great part of the prosperity of New South Wales to that circumstance?
Yes; it could scarcely have been a colony without that assistance, for many years. I wish to observe, that if the River Albert, at the head of the Gulf of Carpentaria, is thought too near to the Moreton Bay squatters, in that case there is the River Victoria, on the north-west coast of New Holland, and perhaps other eligible places can be found between that river and Swan River.

The Witness is directed to withdraw.

*Mr. T. N. Yule.*

Mr. THOMAS NEWTE YULE is called in, and examined as follows:

746. *Chairman.*] YOU have been a resident in Western Australia?
Yes.

747. What part of the colony?
In various parts; I originally settled there in May 1830; I arrived from India, and then I located for some time on the sea-side of the range of hills; then I was on the range of hills in the Toodyay District as settler, grazier and farmer; and latterly I have been in the Government employ at Perth, the last seven years.

748. In what Government employ?
In the local Government employ; I have been in various capacities, as protector or guardian of the natives; since that, I have been clerk of the Legislative and Executive Councils, and as *locum tenens* I acted twice, for 18 months altogether, as Colonial Secretary; and now I hold the office of police magistrate in Perth.

749. Are you returning to the colony?
I am.

750. What is your experience of the effect of convict labour upon the colony, in various ways, in developing its resources, or affecting its social condition?
A convict, as a general rule, is said to amalgamate amazingly well with the free population; there are no feuds; there are no slurs thrown upon them; in fact, the magistrates keep down everything like that; if a man in angry recrimination calls another a "convict," he may be punished for it. There is very little obnoxious language arising between them and other classes. There is no scruple on the part of females in marrying a well-conducted convict.

751. Have the convicts that have come there, on the whole, behaved well?
Not wholly so; but as a class, I should say very much better than we could, when we applied for them, have anticipated.

752. Can you give us any figures as to the number of convictions that have taken place in the convict population?
I could have done so, had I known that it was desired. I kept a register of

*Mr. T. N. Yule.*

27th June 1856.

all convictions of crimes, and the punishments awarded; a complete statistical account; and that can be had by a reference to my office in Perth.

753. You have not with you, in this country, any materials that would enable you to state that?

I have not.

754. Does the crime that does take place in the colony mostly arise among the convict population?

Certainly not; although there may be apparently a greater amount of crime standing against convicts, because they are chargeable for small misdemeanors, which a free man would not be subject to; for instance, being out after the hour of nine or ten, as may be ordered, and many other little restrictions which a convict is subject to under disciplinary regulations, and for the infraction of which he would be punished

755. Has it been found easy to absorb in employment all the convicts that have arrived from time to time?

Occasionally there have been a greater number in the local depôts than have been required. Local depôts or rural depôts have been established, to which convicts have been sent, in certain numbers, to answer the necessities of that district. They have been sent there, subject to being selected by the farmers of the district for service, and I think they have generally been well taken; but if a gang fails to obtain employment from the farmers, there is a receptacle and home for them, and they are put upon public works when not employed by the farmers.

756. Then the system is to have depôts scattered over the country, bringing the labour into pretty close contact with the employment of the labourer?

Yes. When the farmer requires them at sheep-shearing seasons, and other seasons, he can get them at the depôt; and when they are not required, then they can be returned, and employed on the roads and public works.

757. Is there difficulty in getting continuous employ for the convicts?

At present there is, beyond a certain number; no farmer at present can afford to keep a very large staff of servants.

758. Is the present amount of capital, or the average rate of increase of capital, apparently such as to absorb pretty well, in the way of employment, 300 or 400 convicts every year?

I should say more than that. The market for labour has increased very much. Many of the better conducted conditional pardon men are themselves becoming purchasers of land, and therefore employers of servants. Much land is annually being broken up that was before a virgin soil, and food is becoming cheaper, enabling a man to purchase more; and if the price of land was to be made lower, I have no doubt that many that now leave us would remain in the colony.

759. You think that the high price put upon the land is an obstruction to convicts and others becoming proprietors of land?

I do, in a great measure: 10*l.* is a great deal for a man to save, and that will only buy 10 acres; and out of those 10 acres there will probably be some that will be of very little service to him.

760. You think it would be of great importance to give a greater encouragement to settle in the colony by a reduction in the price of land?

I do. I believe that is the general opinion of the colonists.

761. The principle of assignment has not been adopted in Western Australia?

It has not. It is done, under instructions, in this way: a certain number who are told off by the Comptroller-general for a certain district go to that district; and their names are sent to the magistrate of the district, who records every change of service which a man makes. He is at liberty to engage with whom he pleases, and to get what rate of wages he can obtain, as much so as a freeman; but he may not leave the district without the Comptroller-general being made acquainted with it.

762. Can you tell us what is the proportion of the sexes in the colony?

It is deficient in female material, but I cannot say to what extent; but that has been the case more particularly since the arrival of convicts.

763. Lord

763. Lord *Dungannon.*] Is there any very great extent of land out of cultivation at present?

Very great.

764. Is there any very great quantity of land in the colony that could be advantageously brought into cultivation?

I have no doubt of it; it is more adapted to agriculture than grazing.

765. You think that if the land was to be had at a cheaper rate than at present very great advantages would accrue?

I think so. I think many of those convicts, conditional pardon men, who have established themselves there, and reinstated themselves in the good opinion of the public, would, if they were able, purchase land in preference to going away. I have, when acting as a police magistrate, heard many of them say that they would not wish to go back to the parent country, to England.

766. Would a lower price of land encourage free settlers to a greater extent?

It has always been considered that it would, and that it is one of the great obstacles to free settlers coming out, that when they can obtain land in Canada, with a six weeks' passage, at half-a-crown an acre, and at the Cape at half-a-crown and three shillings, at the Swan River they must pay a pound as the minimum price.

767. *Chairman.*] Is it the same all over Australia?

I believe so.

768. Viscount *Dungannon.*] You think that price a great deal too high?

It is a great deal too high, particularly when it must still go to auction, and be knocked down to the highest bidder.

769. Lord *Colchester.*] Is the value of the land in the colony increased by employing the convicts upon public works, such as roads and bridges, so as to open out fresh districts of country, instead of sending them to individual proprietors?

That is a subject which has been much canvassed amongst settlers. There is a general opinion at the present moment that we are rather overdone in the labour market by the ticket-of-leave men; they complain that whole shiploads come out from Portland and elsewhere, where they have already performed their probation, and they are entitled to have their ticket-of-leave the moment that they reach the colony, and, consequently, they are sent to get employment where they can, instead of being retained for a time upon the public works, where they are most required.

770. In your opinion, then, would it be more advantageous to the colony to send out convicts who would have a certain period of penal servitude to undergo after they reached the colony?

Yes, it would be better to send them out soon after conviction, so that they may get their penal service in the colony while under probation, rather than it should be all expended in the parent country.

771. And that those men might, in fact, be labouring upon useful works, opening new districts of country to which they might themselves, in course of time, become settlers?

Just so.

772. Viscount *Dungannon.*] You would prefer having them sent out as soon as possible after their being convicted to their undergoing the system of probation that takes place in the convict prisons here?

Yes; we have recently seen that we require the services of those men on public works which are now spent under probation at home; some are required to be occupied in housing themselves; in fact, the convict establishment is not yet built; of course, the sending gangs of men who are still under probation will entail very great expense to keep up a staff to keep them together in the country, if they are employed in building bridges or constructing roads. The staff must be much greater to watch a man who is still under surveillance and coercion than a ticket-of-leave man.

773. *Chairman.*] Have you considered that it is supposed that convicts come

*Mr. T. N. Yule.*

27th June 1856.

out of Portland, and other places, better trained both for labour, and in a moral point of view, than when they first issue from the local prisons in England?

I am not aware of the difference between their state in the local prisons in England and their state on leaving Portland. But the great majority of them, after being put to such kinds of work at Portland, are not at all more proficient as stonemasons and bricklayers, and so on; they never perfect themselves in trades.

774. Do they come in good health?

They enjoy very good health. I have been visiting magistrate once a month at the convict establishment, to receive any complaints, and to see the general state of the men; we have them all paraded before us, and examine their cells, and see them during their dinner-hour; we see and examine their food, both in the kitchen and on their tables, and take any complaints they have to make. They have very little complaint to make, except that which all men will make, that they do not get enough.

775. All things considered, you would rather have the men come out to you immediately after conviction, without any previous moral or industrial training, than to receive them after a period of discipline and training at public works in England?

I think it would be better for the interests of the colony to receive them direct from the prisons in England, rather than that part of their time should be expended upon probationary labours in England; so that they might be under coercion during their probationary service in the colony.

776. You would have them kept under coercion, for a time, in the colony?

Till they are entitled to a ticket-of-leave.

777. Of course the expense of that would be charged to the mother country as part of their sentence?

Yes.

778. Viscount *Dungannon.*] How soon after their arrival might they be, in all probability, entitled to a ticket-of-leave?

It would depend upon the time they are convicted for. If transported for 15 years, they would get it after a service of two or three years; but the Comptroller-general, who, I understand, is summoned to give evidence before your Lordships, is better acquainted with those minute points than I am.

779. *Chairman.*] Then, after a certain period of working in gangs on the public works, would you have them go on ticket-of-leave to look for employment for themselves, or would you have them assigned to specific masters?

Not assigned; I much prefer the present system of allowing them to go into a certain district which may be changed upon reference to the Comptroller-general; by that means there is a greater knowledge of his whereabouts, and what he is doing, possessed by the magistrate and constabulary force in the district than would be the case if he were at large generally; and as to his being employed, I think very few persons would take men of that sort whom they were obliged to keep for a certain length of time.

780. You are aware that there has been found, practically, great demoralization whenever a large number of men of that class are brought together to work in gangs, except under very peculiar precautions which are employed at Portland and some other places, and which it would not be easy to carry out with respect to bodies of men moving from place to place?

I am aware of the demoralization referred to; but I know of no reason why it should not be prevented in the colony as well as at home; they should be in one place, not travelling about. They might be employed in such a work as building a gaol or constructing a harbour at Fremantle.

781. There are some great public works required in the colony similar to those in hand in England on which a considerable number of convicts could be employed adantageously to the interests of the colony for a considerable time to come?

Certainly.

782. Will you state what they are?

Particularly,

Particularly, a mole or harbour at Fremantle, the plans of which have been drawn, and for which estimates have been made.

783. Have you any idea what extent of labour that would require?
I have not; but the Comptroller-general will be able to state that.

784. Earl *Stanhope.*] Do you also contemplate a railway extending from the mining district to the coast?
I am not aware of any such project.

785. Lord *Colchester.*] A few years ago there was a road of 300 miles made from Perth to King George's Sound; was that made by convict labour?
Partly, and partly by our own black convicts, temporary prisoners.

786. Among the convicts so employed did any demoralization arise during that employment?
Not any that I am aware of; they were principally ticket-of-leave holders who were out of work at the time, and then on their applying for assistance, or to be taken back at some of the depôts, they were sent on to the roads under a warder and a constable; as a police magistrate I know of very little crime that was committed by those gangs.

787. Are you of opinion that convicts so employed, looking, as they would do, to their good behaviour for subsequent advantages, would not be likely to misconduct themselves under such circumstances?
I think not; more particularly as the magistracy are invested with very great powers over convicts, and there is also very great inducement for them to conduct themselves well.

788. Lord *Ardrossan.*] Will you state some of the other public works on which you think that convict labour could be employed?
Roads, I should say, are the principal things which the country requires now, for the country is very hilly between the chief towns of the colony and the principal agricultural and grazing districts.

789. Do you see the means of employment for many years to come for the convicts on public works?
I think for a certain number. There would be a considerable opening for convicts on the public works.

790. To what amount do you consider that the increase of convicts could be carried with safety or advantage to the colony?
I should think from 800 to 1,000 annually, if accompanied with other things; especially such a reduction in the price of land as should enable many to buy land, and to become the employers of their fellows.

791. You think that unless other conditions were added to those which you have suggested, any considerable increase in the number of convicts would not be advisable?
Even under the present system, I should say that from 600 to 800 might be taken with safety.

792. *Chairman.*] How would you provide females so as to constitute families?
By emigration. We find that those who come from Ireland are generally the most virtuous of any of that class of society that come among us, and they seem to entertain no scruples of delicacy in marrying ticket-of-leave men, if they are well-conducted men.

793. Then, do you consider Irish females as the best resource for equalising the sexes?
Yes. I think, since 1851, about 180 have married convicts.

794. Viscount *Dungannon.*] About how many of those come out annually?
They only come if sent out by the Emigration Commissioners.

795. How many can come out in a year?
That is a question which I could not answer.

796. Could you bear the increase you have stated in the number of convicts annually, without the land being reduced in price?
I think

*Mr. T. N. Yule.*

27th June 1856.

I think from 600 to 800.

797. Even at the present price of land?
Yes.

798. Earl *De Lawarr.*] And with other inducements, how many do you think might safely be sent?
I think it might be increased considerably more, probably up to 1,000, because many would be going away; that is, under the circumstances which I have mentioned; of many buying land at a cheap rate, and becoming themselves employers of labour.

799. Is there any prospect of mining operations in the colony being proceeded with?
I understand that there are negotiations now pending between some parties in England for working them; I heard that from Mr. Grellet a few days since; but with our own capital I am afraid very little will be done.

800. The introduction of foreign capital is looked forward to with satisfaction by the colonists?
I believe so now; but they seem to have been averse to it some time since.

801. *Chairman.*] What amount of free emigration do you think we ought to secure with an increase of 1,000 convicts in a year, to keep the colony in a healthy situation, both females and others?
With regard to free male emigrants, they have no sooner arrived, generally, than they seek to be off to the gold diggings at Melbourne, and they have frequently taken their wives and their sisters with them, if they had the means to do so; frequently I have known that a man has gone from the Swan to Melbourne, and has within a few months sent for his wife and children to follow him.

802. Viscount *Dungannon.*] Do the young women that come out from Ireland generally marry very soon after they reach the colony?
Frequently.

803. And they have no objection to connect themselves in marriage with convicts?
It is very common; about 180 have done so since they first arrived; that is according to the statistical account sent in by the Comptroller-general.

804. Do you consider the general conduct of the convict population to have been good?
Much better than I had anticipated from the smallness of the police force and the characters of the persons whom we knew we were introducing.

805. Serious offences among them have been but rare?
Very rare; of robbery with violence, I think, there was never but one instance, and that *inter se:* burglary is the most common crime, and the use of false keys; many of them being clever mechanics, they are able to make them.

806. Earl *De Lawarr.*] Have you perceived a marked improvement in their conduct shortly after their arrival in the colony?
I have no experience of their previous conduct.

807. But after they came under your notice have they appeared to be altered in their habits soon after their arrival?
Many of them seek to gain a character; there are others that nothing would reclaim, such as the burglars and makers of false keys and picklocks, some of whom are blacksmiths.

808. Viscount *Dungannon.*] And I understand you to say that most of them become useful members of society?
I have heard many settlers speak highly of them: I have not been farming myself for the last seven years, but I had an intimate connexion with many farmers, and many of them have told me that they wished to have no other servants than those men, and that the free population are just as great rascals as some of the convicts.

809. And they are never taunted with their former offences?
No;

No; if it is done, the person who does it is punished: we have a local law which renders it equally culpable to make use of such language to another as will cause the commission of a breach of the peace by another, as himself to commit a breach of the peace; therefore, calling a man by any such epithet, or using any irritating language to a man is punishable.

810. *Chairman.*] Are there any other observations that occur to you upon this subject?

With regard to the repayment of the passage-money by the convicts, that has always been considered by the settlers as being, in fact, a tax upon the employer, inasmuch as the man would be enabled to come for a less rate of wages if he had not to make that repayment; and it is always in his mouth, "But, sir, I have got to pay 5 *l.* a year to the Government for the passage-money, therefore I cannot afford to serve you for less than so much."

811. Earl *Stanhope.*] Therefore it falls ultimately on the employer?

I believe it falls on the employer, because the employer is bound to pay 8 *s.* 4 *d.* per month out of the wages of the man to the convict establishment.

812. *Chairman.*] If there was considerable competition, would not the price of free labour be higher than that which the settlers pay to the convicts?

I do not know; except in the case of an useless person about house to do odd jobs, I do not know any instance where a convict receives less than 1 *s.* a day, with his food,—18 *l.* a year; that is the usual rate: except in offices of trust, about farms, and as head shepherds, the convict gets as much wages as a free-man, if he is a skilled labourer.

813. Earl *De Lawarr.*] Is it necessary that a convict should have paid up the full amount of his passage-money before he can apply to have his wife and family sent out to him?

It is not by any means necessary; it is wished, of course, to make a man pay his passage-money as soon as possible; but if he is a decently conducted man, the Comptroller-general passes the application for his wife to be sent, although his passage-money may not have been paid in full.

814. *Chairman.*] Is the expense of his wife and family paid out of the imperial fund?

Partly from his own and partly from the emigration funds. He does not eventually pay the whole of the passage-money of his wife and family, because they are sent out by the Emigration Commissioners; they are sent as free emigrants. In some cases in my district the application was not allowed, because the man had not the means of maintaining a wife and family; he was not himself a saving, industrious and frugal man, and could scarcely maintain himself, and there was, therefore, very little use in sending for the wife; but in many instances where the men have sent for their wives, the wives have refused to come. I would also observe, with respect to the price put upon the land, the upset price at present is 1 *l.* an acre. That is a great deal too high, and it has kept many emigrants from coming to the colony. When I have been asked by relatives and friends in England whether I would advise their coming there, the high price of the land has kept me from advising their coming.

815. You are aware that that price was fixed with the idea of forming a fund to be employed in bringing free settlers, and also with the view of discouraging persons from getting possession of a large extent of land which they did not occupy or turn to any value?

That was the theory, but I think a false one.

816. Earl *De Lawarr.*] Practically, it has operated to discourage emigration?

Certainly.

817. Lord *Ardrossan.*] Do you find the second generation of free settlers remain in the colony, or are they for the most part anxious to get away?

They have a great inclination to remain, and even those who, after being some 15 or 20 years in the colony, return to England, are anxious to return, as a general rule.

*Mr. T. N. Yule.*
27th June 1856.

818. You have no fear of the free settlers making it a stepping-stone to other colonies if they are well treated?
I have no such fear.

819. *Chairman.*] When you left the colony was there any apprehension in the minds of the free settlers lest the annual influx of convicts should be too much for the colony, especially as affecting the moral condition of society?
None whatever. I am certain that they are in fear lest the system should be abrogated; they are anxious that it should be continued.

820. And not only continued, but somewhat extended?
That it should be somewhat extended up to the extent of 800 or 1,000 a year.

821. You consider a certain proportion of free emigration as a necessary ingredient in the plan?
I believe so.

822. And you think that could be secured by free passages and by grants of land, or by selling the land at a low price?
I think if the price of the land were reduced to a reasonable sum there would be a chance; as to free grants of land, I do not suppose the colonists have entertained the idea of that.

823. You are aware that Western Australia has to compete with other colonies, possessing very peculiar attractions at the present moment?
Certainly.

824. And therefore some artificial stimulus is required to draw settlers to that colony?
Yes, to draw and to keep them there.

825. Even the present free settlers go off to Melbourne?
Many of the fresh arrivals do; they are unsettled and wandering.

826. What security would you have, supposing you were to import annually 1,000 convicts and 1,000 free settlers, that a large portion of those free settlers would not drift away to other parts of Australia?
We can have no security till they themselves get settled. When they first arrive, they are in a migratory state. I know it to be the case, from the representations of the emigrants themselves, that they feel disappointed on their arrival, from having been told by the Emigration Commissioners that it is all the same as Melbourne; that they can go down there in an omnibus any hour. They expected to be going to relatives who had been established in Melbourne for years, perhaps. I had lately a female servant of my own, who came out with that expectation, and I assisted her to get to her relatives in Melbourne; but she came there with the perfect understanding from the Commissioners that she was going to the same neighbourhood. It seems as if the object was only to fill the ship at any expense to the feelings of the people.

827. You do not mean to say that the Commissioners themselves have made those representations to the emigrants?
Not the Commissioners, but their agents at the ports.

828. Viscount *Dungannon.*] The persons employed to treat with those persons who wish to emigrate have stated to them things which were at variance with the truth?
Yes; they continually state, on their arrival, that they thought they were going to Melbourne or to Adelaide, and that they had no intention of coming to this place.

829. If the price of the land were lowered to 10 *s.* an acre, do you think that would meet the difficulty, and have a good effect?
I think that is the least reduction that would have any effect; any price above 10 *s.* would have no effect; but if it could be reduced below 10 *s.*, that would be likely to have a good effect.

830. You would rather have it 5 *s.* than 10 *s.*?
I would rather have it 5 *s.*; I think if it were 5 *s.*, that might be an inducement to persons with some capital; that is what the settlement requires now.

831. You

831. You do not think that if the price were put at 10 *s.* an acre that would induce people of capital to emigrate?
I am not prepared to say; but I think not.

832. *Chairman.*] Would you recur to the free grant system, under which the colony was originally founded?
Originally, the land was granted in the ratio of one acre for every 1 *s.* 6 *d.* of value which the man imported into the colony of dead or live stock.

833. Those were very advantageous terms to the settler?
I did not find it so myself; I would much rather have come 10 years afterwards and purchased the land; I lost 4,000*l.* worth of horses from having them there in a bleak winter, with no house or hut to put them in.

834. But you think that now sales of land at a low price would attract a considerable amount of capital to the colony?
I think it would; at all events it would give a spur to settlement there.

835. Viscount *Dungannon.*] When did you leave the colony?
In February last.

836. How many years had you been there?
I went there in May 1830.

837. Have you been in the colony ever since without moving away?
Except a few months on sick leave to go to sea; and some years before I went to India; I was in the Company's service.

838. Do you think that if there was a fair price put upon the land, the colony would be a very rapidly improving one?
Rapidly, as compared with anything which it has experienced hitherto; I would not say that there would be again a rush to it, as there was originally, and as is now taking place to the gold fields at Melbourne, but I believe it would gradually improve, and I believe the old settlers would induce their relatives and friends to come there.

839. Do you think that the rush to Melbourne is likely to continue or to decrease?
I think to decrease; it depends of course upon the find of gold. But many that have gone there, on returning, have said that there is great difficulty in getting it, and that they are beginning to wash the earth over again. They have found out some new veins; but it will depend altogether upon how they succeed. We have found gold indications also in Western Australia.

840. *Chairman.*] Free grants of land would rather attract capital to the colony than labour?
Yes, I should say so.

841. Is not the great desideratum rather to attract a considerable number of free labourers to settle in the colony, so as to prevent the colony from being almost entirely peopled as to its labouring class by those who come from convict sources?
I think it is desirable that there should be a certain proportion of free labourers who have not been convicts; but it is difficult to attain that, so long as Melbourne holds out such inducements in the gold fields, although two-thirds of the people that go there are utterly ruined; but it is a lottery, and there is a possibility of succeeding.

842. If you could get a considerable amount of capital imported into the colony, you would be content with having a convict population forming the main bulk of the labouring classes, provided you could see a security for an influx of females?
I think so; I think that if such inducements were held out as to bring among us settlers with capital, that would be the means of keeping free labour there also.

843. Viscount *Dungannon.*] Do you think that that would necessarily have the effect of increasing the number of female emigrants?
I think

*Mr. T. N. Yule.*

27th June 1856.

I think so; many of those that come bring their families with them; capitalists particularly. When I speak of capitalists, I do not mean white-handed settlers, but small farmers who can bring their 400 *l.* or 500 *l.* with them, and whose sons and daughters would come with them.

The Witness is directed to withdraw.

Ordered, That the Committee be adjourned till Tuesday next, One o'clock.

# *Die Martis*, 1° *Julii* 1856.

LORDS PRESENT:

| | |
|---|---|
| Marquess of Salisbury. | Viscount Dungannon. |
| Earl Stanhope. | Lord Wharncliffe. |
| Earl De Lawarr. | |

THE EARL STANHOPE in the Chair.

Evidence on the Act 16 & 17 Vict. c. 99, on Transportation.

Captain EDMUND YEAMANS WALCOTT HENDERSON, R. E., is called in, and examined as follows:

*Captain E. Y. W. Henderson, R. E.*

1st July 1856.

844. *Chairman.*] YOU were superintendent of convicts in the settlement of Western Australia?

I was comptroller-general of convicts from the commencement.

845. When were you first appointed to that office?
In February 1850.

846. When did you quit the colony?
In February 1856.

847. Had you previously filled any office in the colony?
Not in that colony.

848. In what colony had you filled any office?
I was one of a Board of Commissioners appointed in 1845 by Mr. Gladstone, to settle the boundary between Canada and New Brunswick.

849. When did you first go to Australia?
I had never been in Australia before 1850.

850. What was the number of convicts under your charge when you first went out?
I took out 75.

851. Did you take out the first that went from England?
I did.

852. Were those 75 convicts exclusively men, or were there women amongst them?
There have never been any female convicts sent to the colony.

853. What was the number of convicts when you relinquished your office?
The total number that we had received was 3,911.

854. Of those, how many remained in your charge when you left in February last?
I could not exactly say, without referring to my last half-yearly report; it was about 2,000.

855. Will you have the goodness to explain to the Committee the manner in which the convicts were disposed of on arriving in Australia, beginning with the party under your command?
Our first operations were to house the parties that we brought out. There had been no preparation whatever made for our reception; in fact, the colony did not know that it was made a penal settlement till they arrived. We hired premises and fitted them up. The convicts fortunately behaved extremely well,

*Captain E. Y. W. Henderson, R. E.*

1st July 1856.

for we had no means of restraining them whatever. I had some difficulty in getting them into private service at first, for all that the colony knew about transportation was the very exaggerated reports they had had from other colonies. The colonists applied for convicts simply because they found they could not do without them; but I believe that there was a strong party against it: they did not say much about it, but there certainly was a strong feeling against their coming there. They would not have had them, except under the circumstances that I have stated; but after their arrival, they found that the men were so different from what they expected, that a re-action took place, and up to the time of my leaving, nothing could be more popular in the colony than the whole system of transportation.

856. How did you employ the men at first under your command?

Entirely in fitting up their own prison; in fact, subsequently, we built a permanent prison, which will be completed this year. That has absorbed a great deal of the labour of the prisoners: but there have been a great many public works undertaken by the ticket-of-leave men, of course at the expense of the Home Government.

857. How soon after your own arrival did the next shipload of convicts arrive?

The second convict ship arrived about three months after I reached the colony.

858. How many did that ship bring?

That ship brought 100.

859. What was the system you adopted after this; what works did you employ them upon?

They went entirely on the prison; I absorbed all my labour in fitting up the prison.

860. How soon did you begin to employ them in new works, exclusive of the prison?

There were a few men sent upon a road party, but there was nothing of any importance undertaken till July 1851.

861. What works did you undertake then?

Principally clearing and making roads.

862. What was the system which you adopted in respect to tickets-of-leave; what rule did you lay down upon that subject?

Our ticket-of leave regulations were framed pretty much upon those that were formerly in force in New South Wales; each man was assigned a particular district, which he was not permitted to leave without a pass from myself, and in that district he was at liberty to seek work, and to do the best he could for himself; he was obliged to report himself twice a year, and he was not allowed to carry fire-arms; but, independently of those things, he was, to all intents and purposes, a free man, except that he was liable to summary jurisdiction.

863. What security had you against a man with a ticket-of-leave quitting the settlement?

Simply this, that Western Australia is, I may say, a vast natural gaol; there are only three ports from which they could escape; and the number of vessels leaving the colony is so small, that there was not the slightest difficulty in keeping them there. I may mention that during the whole time I was there, I do not think we lost more than five or six men, who made their escape from the colony; we never lost a single prisoner.

864. Did you examine the ships systematically?

Always.

865. Marquess of *Salisbury*.] Were there many attempts to escape?

Very few; we generally had one or two after the arrival of each convict ship. I used to tell them that it was of no use trying to escape, that no one ever got away, and, generally speaking, they believed me. Sometimes one or two tried it; but they were pretty sure to be caught, and that was enough for the rest.

866. But

866. But about four or five escaped?
About that.

867. Earl *De Lawarr.*] How long after their arrival, generally, did they attempt to escape?
Generally, almost immediately; after a month or two. There was one man that tried three or four times, but he was always caught; he was a desperate sort of fellow.

868. *Chairman.*] Did they attempt to escape by endeavouring to disguise themselves, and to get away in a ship, or did they attempt to escape into the bush?
The prisoners I am speaking of attempted to escape into the bush.

869. Viscount *Dungannon.*] Did you ascertain what was the class of offences, generally speaking, for which the convicts you first took out were convicted; were they convicted of any very grave offences?
Those that I took out were all men sentenced to 14 and 15 years' transportation. They were all selected men. There were serious crimes among them, but they were selected for their good conduct in prison in England. They were all from Portland.

870. *Chairman.*] Has that system of selection for good conduct continued to the present time?
No, it has not; latterly we have received a very different class of prisoners.

871. Viscount *Dungannon.*] A much worse class than those you first took out?
Very much worse; in fact, so bad, that I felt it my duty to bring it under the notice of the Government; because I foresaw that, if it were continued, it would bring the system of transportation to a close very soon.

872. What is the plan upon which the convicts are at present selected?
At present, I believe, the rule is merely to send out those men that they do not hang. It comes to that. We get about the worst classes of criminals, I suppose. The men mentioned in the return before the Committee are men that formerly would have gone to Norfolk Island.

873. We have a return here, made up under your direction at Fremantle, in October last. I see that the first offences named are, one man, "Robbery, with violence, and conspiracy;" another man, "Burglary, with violence;" another man, "Unnatural crime;" and a fourth, "Rape upon his own daughter;" do those grievous offenders appear to you a fair representation of the class that you have referred to as having been latterly sent out among the convicts?
We have had such a large proportion of that class of criminals, that I felt it my duty to bring it under the notice of the Secretary of State.

874. Then, in fact, the lighter offenders, who were formerly sent to Western Australia, are now retained at home, and the heavier offenders sent out in preference?
Yes. I do not wish your Lordships to understand that I object to men because they have committed very serious crimes once, or because they have a heavy sentence; it is because the men prove by their conduct after conviction that they are incorrigible. I do not think the long sentence men are at all incorrigible: in fact, the short sentence men gave more actual trouble than the long sentence men. The seven years' men are generally an idle and worthless class, that never perhaps do much harm, but never do any good.

875. Earl *De Lawarr.*] What you object to is the incorrigible class?
Yes; what I call the incorrigible class.

876. Viscount *Dungannon.*] Do you think it desirable, generally speaking, that the convicts should undergo a certain period of imprisonment in England before they are sent out, or would you desire to have them sent out very soon after conviction?
As the establishments in England and at Swan River are now, I think it is immaterial; but I have always thought that they ought to undergo part of their imprisonment in Western Australia before getting their ticket-of-leave. We find that the men who come from England direct with tickets-of-leave are more

*Captain E. Y. W. Henderson, R. E.*

1st July 1856.

liable to get into trouble than those who have had some little drilling in the colony. They come out with very exaggerated notions, which you cannot avoid: but after they have been some little time in prison in the colony, they learn from those around them what they may expect. The system is so well established there now, that they are quite as well looked after in the colony as in the prisons in England.

877. Then you would not object to their being sent out at once, and undergoing imprisonment in the colony before obtaining their ticket-of-leave; you would prefer that to their undergoing imprisonment in England?

I should prefer that to their undergoing the whole of their imprisonment in England.

878. *Chairman.*] Do you ascribe much value to the moral and industrial training which some of them have received during their confinement in England?

The greatest.

879. You have seen the beneficial effects of it?

Decidedly.

880. Therefore you would regret to see convicts brought at once to the colony after their conviction, without having received the benefit of that reformatory discipline and training?

I think it is most desirable that they should have that training—a portion of it in England and a portion of it in the colony.

881. Do you make any distinction in your answer between the prisoners that have come from Pentonville and those who have been employed in public works?

We have had very few men sent direct from Pentonville; but I think it is very desirable that they should go on public works before coming out, and not be embarked direct from Pentonville.

882. Viscount *Dungannon.*] Have you had any direct from Spike Island?

We had two Irish ships; but I think they came from all the prisons; I do not think they came from Spike Island.

883. The system at Pentonville is very different from the system at Spike Island; I believe it is entirely the silent system at Pentonville?

Entirely.

884. *Chairman.*] Has any resolution been taken, in consequence of your representation, with respect to the class of convicts henceforth to be sent out to Western Australia?

I am not aware; I have not seen any answer to that despatch. The Secretary of State told me that he had got it, but I am not aware what answer was sent.

885. In fact, it was still under his consideration?

Precisely.

886. Supposing a convict had come out after confinement in England, what is the first step that you conceive should be taken on his arrival in the colony?

He has to serve out first the remainder of his time on the public works in prison at Fremantle, or one of the branch establishments; and if his conduct entitles him to it, he then receives a ticket-of-leave.

887. How soon can he obtain that ticket-of-leave?

It depends upon his offence; the general rule was that they had to pass one-half of their sentence before they got a conditional pardon, and a portion of that is spent in solitary confinement, a portion on the public works, and a portion on ticket-of-leave.

888. Viscount *Dungannon.*] Is solitary confinement used in Australia now?

In the case of every man that came out under a sentence of transportation we carried out the English system, as far as we could.

889. Is it the fact that there is no disguise as to the persons who receive tickets-of-leave, but the persons so receiving them are known to be ticket-of-leave

leave men; they do not (as happens in England) assume any different character?

No, they are perfectly well known.

890. Those, therefore, who employ them are aware that they are employing ticket-of-leave men?

Perfectly.

891. *Chairman.*] What is your opinion, generally, of the conduct of those ticket-of-leave men, speaking of them as a class?

Speaking of them as a class, I should say that up to June last nothing could have been more satisfactory than the way in which they behaved; but some of the convicts that we have received lately have committed two or three very serious crimes, and I should be wrong if I disguised that; there is, in consequence, a very strong feeling growing up in the colony against the system.

892. Viscount *Dungannon.*] That has arisen from the conduct of the very bad classes of persons who have been selected?

Precisely.

893. I understand you to say that the system of selecting persons for their comparatively good behaviour in prison worked well, but that now that has been altered to a system of selecting and sending to the colony the worst offenders, who are the most difficult to deal with?

Yes.

894. And the ill effects of that change of system have become very apparent?

They have not been very apparent yet, but I thought the sooner it was brought under the notice of the Secretary of State the better.

895. And you have done so in an official report, not merely in a private communication?

I sent everything to the Governor.

896. Therefore the Government have your opinion upon this subject in an official form?

Yes.

897. You think that if the convicts were selected with judgment, a great deal of good would arise to the colony from their being sent out?

I have not the slightest doubt about it.

898. Are there a great number of works which are necessary to be undertaken, and which cannot be carried into effect without the assistance of convict labour?

Certainly.

899. *Chairman.*] Have you been able to form an opinion as to how many convicts it might be desirable to send to Western Australia, yearly, at present?

I think that if they discontinued sending the incorrigibles, and re-enacted the punishment of 10 years' transportation, Western Australia would take all that you want to send away. By not sending the incorrigibles or sickly men, the sort of men that would hang on our hands, I think that Western Australia would take from 600 to 800 a year. In fact, I think it would relieve the mother country of all that she wants to send.

900. Earl *De Lawarr.*] And you think there would be a desire among the colonists to receive them?

A very strong desire.

901. *Chairman.*] You have adverted to the length of the sentences; you are aware, probably, that a strong objection has been taken in Parliament to the system of altering the term of imprisonment under the last Act; and that it has been concluded, that even where transportation is not actually enforced as a punishment, the term of the sentence ought not, on that account, to be shortened. Have you considered that subject, and have you formed any opinion upon it?

I think it is very desirable that both prisoners and judges should be aware what sentence actually will be enforced; I think there should be a maximum

*Captain E. Y. W. Henderson, R. E.*

1st July 1856.

and a minimum which they should both understand; that is to say, that if a man is sentenced to seven years' transportation, the judge who sentences him, and the man himself, should know what it is that he is certain to get; but I think that no system of discipline or reformation can be successful without the hope of shortening the sentence by industry and exemplary conduct.

902. Viscount *Dungannon.*] What has been the usual commutation for sentences of seven years' transportation?

The minimum, with an occasional exception, is one-half. The convict has to serve one-half of that period before he can get a conditional pardon. That is the general rule upon which all the scales have been fixed. We have the power of shortening it in some exceptional cases, but that is the general rule.

903. Marquess of *Salisbury.*] Have you many free pardons granted?

Very few free pardons; it is scarcely ever granted, unless proof is given that the crime has not been committed.

904. *Chairman.*] Can you grant free pardons in the colony?

No; we have not the power; in fact, the only free pardons were those sent out by the Secretary of State. I have applied for pardons, but I do not recollect one being granted.

905. Viscount *Dungannon.*] You applied for it in consequence of extraordinary good conduct?

In consequence of extraordinary good conduct.

906. *Chairman.*] Then the power of granting free pardons rests solely with the authorities in London?

Solely. The Governor of the colony has no power to grant even a conditional pardon.

907. Should you think it desirable to leave larger discretionary power in the hands of the local authorities?

I think the power of granting a conditional pardon would be a very important weapon in the hands of the Governor, for this reason: that very often we can get information from ticket of-leave men, if we could enable them to leave the colony immediately afterwards.

908. Viscount *Dungannon.*] You mean, that you would be able to get information from them of any evil at work that was going on?

Yes; but they would be afraid to remain in the colony; they would consider a conditional pardon a very great boon.

909. Lord *Wharncliffe.*] Is not the time of granting a conditional pardon calculated upon the length of time required for communication between England and the colony?

We always sent home the application so that the pardon would arrive when the man was entitled to it.

910. Is not 18 months the time generally allowed?

We sent the application about 12 months before the time the man would be entitled to it, and we got the answer back in about eight or nine months.

911. *Chairman.*] Did many of the convicts who obtained tickets-of-leave enter private service?

Yes, a very large proportion of them.

912. What statement did you receive, generally speaking, of their conduct?

They were, very often, preferred to free emigrants; that partly arose from the much greater power their employers had over them; they were nearly all single men, and certainly, as a general rule, they behaved remarkably well.

913. What was the precise power which the employers had over those men?

They had nothing to do but send them back to the depôt if they misbehaved themselves; if the employer was dissatisfied with the man, and did not like him, without having any serious fault to find with him, he just sent him back to the depôt; the men were obliged to form engagements for a year, but the employers had the privilege of sending them away whenever they pleased.

914. Marquess of *Salisbury.*] What were the usual wages paid to convicts?

The minimum was 1*l.* a month; when I went to the colony there was no regular rate of wages at all; we calculated that a man could clothe himself, and get

get absolute necessaries, for about 7*l.* a year; then he had 5*l.* a year to pay for his passage-money; that made 12*l.*

915. *Chairman.*] Do you prefer that system very much to that of assignment, as it formerly prevailed?

The assignment had a great many advantages, though it certainly had some disadvantages; it was a very great boon to the settlers; they got cheap labour. The colonists in Western Australia have had an abundant supply of labour, but it has not been cheap; they have had to pay the ticket-of-leave men as much as they would pay free emigrants; whereas in the other Australian colonies they got their servants for nothing, under the assignment system.

916. Marquess of *Salisbury.*] What were the evils of the assignment system?

It opened the door to a great deal of tyranny on the part of bad masters. It was uneven in its application; and if an employer did not get the men he wanted, of course he was dissatisfied; everybody wanted men, and everybody could not get them.

917. Lord *Wharncliffe.*] There was a great deal of favouritism, was not there?

Of course it was immediately said that there was. The Governor, and everybody connected with the Government, was abused, because persons could not get what they wanted. I think that is one of the great evils of the asssignment system; but otherwise it rid the Government of the men very fast, and it was a great boon to the settlers generally.

918. Was there any established system of rations for the ticket-of-leave men?

Not in private service; they went just as any free labourers.

919. Are you acquainted with the system of rations given in the colony to the convict prisoners and ticket-of-leave men?

The ration now is the same for all prisoners and ticket-of-leave men; at one time they gave the re-convicted prisoners much less: that is a question that has been very much discussed there. At present the ration that is allowed is considerably less than the ration allowed in English prisons. The surgeon of the convict establishment, who is a very clever officer, is of opinion that in that climate they do not require so much. Whether he is right or not I never pretended to say; but the ration scale now in force is considerably less than that in force in England.

920. Are there any troops in the colony?

Yes, there is a company of Royal Sappers and Miners, and a Company of the Line, and the pensioner force.

921. Are you not aware whether the rations allowed to the troops are the same, or greater than those allowed to the prisoners?

I believe that single men of the Royal Sappers and Miners ate much more than prisoners. The ration of the soldiers is merely 1 lb. of flour and 1 lb. of meat, and then the remainder of their food they buy out of their pay.

922. Are you not aware that the rations to the prisoners are 18 oz. of bread and 14 oz. of meat, and 12 oz. of potatoes?

I believe that is the ration in the last Blue Book.

923. Is not that a higher ration than the soldier can purchase with his pay in the colony?

No, I think not. I forget what the cost of the ration was that single sappers did eat in the mess; but I believe it was considerably more than that.

924. Is there any mode of getting any report upon that subject—what the soldiers have, and what the convicts have?

Yes, I imagine it could be easily got.

925. What would be the mode of applying for it?

I should think by an application to the Governor: he would get it from the officer commanding the troops.

*Captain E. Y. W. Henderson, R. E.*

1st July 1856.

926. Viscount *Dungannon.*] Do you not feed the men according to the character of the labour to which they are put?

Prisoners on light labour get a smaller ration, and on heavier labour they get a full ration; none of them get more than what I have stated, except the sawyers and blacksmiths, who get an extra ration on medical grounds.

927. Marquess of *Salisbury.*] Are these articles, which are stated in the return before the Committee to be the rations, purchased in the colony, or are they furnished by the Government, namely, tea, potatoes, treacle, rice, barley, oatmeal, and so on?

Those are all purchased in the colony, I believe.

928. Are the prices as high in the colony for that species of provision as in England?

They are nearly all as expensive in the colony as in England, and some more so. Flour, for instance, when I left was, I think, 24 *l.* or 25 *l.* a ton, that is about 4 *d.* a pound; it has been up as high as 40 *l.* a ton at the commencement of the gold diggings: meat is about the same price as it is in England, or perhaps a little cheaper, 6½ to 7 *d.* a pound; tea is much cheaper.

929. Viscount *Dungannon.*] How many of those ticket-of-leave men whom you have known become afterwards useful settlers?

There are many of them that have settled upon land, and become employers of labour themselves.

930. And done pretty well?

They have done very well; all those that settled upon land.

931. Generally speaking, they have become useful men in the colony?

Very much so.

932. Did you find any difference between the ticket-of-leave men who were sent out as such, and those that obtained their tickets of-leave after arriving in the colony?

Those that obtained their ticket-of-leave after arriving in the colony, as a general rule, did better than those who came direct from England as ticket-of-leave men; the proportion of re-convictions among them was much smaller.

933. Therefore that would tend to strengthen the opinion that part of the imprisonment should be undergone in the colony?

I think there is no doubt about that; I can speak upon that with confidence.

934. Marquess of *Salisbury.*] I believe the Government settled the maximum rate of wages?

We settled it when I first went out in the manner I have described. That was the only way in which we could get at it. There was no rate of wages then; but all the employers were satisfied to give that rate; nobody wished to give less; in fact, we thought it would not be fair to the free emigrants to give less than that rate of wages at that time.

935. It appears from the papers before the Committee, that mechanics employed on task-work are allowed a maximum of 2 *s.* a day. Is not that higher pay than is given to the soldiers employed by the Government?

The sappers got about that; but none of those men got more than 4 *d.* a day in cash. That was one of our regulations. The latter part of the fourth paragraph states, "No man, whatever his earnings may be, except those especially authorized, is to receive more than 4 *d.* a day as money payment for the purchase of clothing, tobacco, soap and necessaries."

936. "The whole of the balance of their earnings is to be carried to their passage account?"

Yes.

937. Was there any considerable balance between the 4 *d.* a day and the amount of their earnings?

It was a very mooted point with regard to the employment of those mechanics. We had a great number of buildings to erect, and if we had not employed those men, we should have had to employ free emigrants at larger wages; and it was considered

considered better to do it by ticket-of-leave labour if we could; but some of those men who were mechanics would go out of the depôt, and get 8 *s.* a day; in fact, we could keep very few of them.

938. Did not it rest with you to say whether a man should have a ticket-of-leave or not?

No; if he was entitled to his ticket-of-leave, we never thought of keeping him; our object was to get them all into private service; in fact, a good mechanic would not remain with us.

939. Then, in point of fact, except under the Government regulations, the ticket-of-leave men were free men; they had only to show themselves twice a year?

And they were liable to summary jurisdiction. There are a great many other regulations respecting them; but those are the principal, that they were confined to a certain district, they were liable to summary jurisdiction, they were not allowed to carry fire-arms, and they were obliged to report themselves twice a year.

940. Was there any complaint on the part of the colonists that the employment of those men were too dear?

No, there was no objection to giving them 1 *l.* a month; but they objected to the repayment of the passage money; they said it was a tax upon them: they hired two men, one a free man and the other a ticket-of-leave man, and gave them both 1 *l.* a month, and the ticket-of-leave man had to pay 5 *l.* out of that for his passage money; and the consequence was, that he had only 7 *l.* to spend, and he would be discontented and grumble; and the end of it was, that the employer had to pay the additional 5 *l.* a year to him, so as to make his money wages the same as those of the free man. Of course the Government did not want the employers to do that; but that was the way they put it.

941. Is that complaint well grounded, in your opinion?

It is rather a difficult question to answer. I think, myself, that it did virtually amount to that; I know that it did, in many cases. Then another drawback to the repayment of the passage-money was, that there were a great many men who could have got their own living, or 7 *l.* or 8 *l.* a year wages; and if they had had no passage-money to pay, they would not have remained on the hands of the Government; but they remained on our hands, because they could not get enough to keep themselves and to pay their passage-money. Again, the only means that we had of getting the passage-money from men who would not pay it was to return them to the depôt. Now, a man could not be kept in the depôt under 25 *l.* or 30 *l.* a year; so that you were paying 30 *l.* a year to get 5 *l.* It was all very well at first when they recognized that the ticket-of-leave men were to be employed on the public works; but latterly, under Sir John Pakington's despatch, they are to be treated simply as paupers.

942. During the latter years that you were in the colony, did the employment of ticket-of-leave men on the public works cease?

They were simply to be employed, as far as possible, as paupers; and, therefore, we gave them 4 *d.* a day, which simply enabled them just to clothe themselves. It was cheaper for us to give them 4 *d.* a day, and for them to clothe themselves, than to give them clothing. The consequence was, that the ticket-of-leave men on the public works were actually worse off than the prisoners, because the prisoners get clothed; and it was as much as they could do to clothe themselves with 4 *d.* a day; they had also to buy tobacco out of that 4 *d.* a day, and to mend their own clothes; it was all the money they had. In fact, there was no inducement to them to work on the public works; quite the contrary; and when I came away, there were very few left. All the good men were hired out. Of course we get a great many tinkers and tailors who are not fit for agricultural purposes, and who hang on our hands.

943. Viscount *Dungannon.*] You speak of tinkers and tailors; cannot you put them to their own trades?

There are so many tinkers and tailors.

944. *Chairman.*] Have you turned your mind to the important question of the disproportion of the sexes in convict labour, and have you at all considered

*Captain E. Y. W. Henderson, R. E.*

1st July 1856.

by what means female emigration, or the settlement of females, could be carried out so as to meet that difficulty?

I tried, as far as I could, to persuade the colonists to receive female convicts, for I believe that if a proper selection had been made, and proper means taken for their reception, female convicts might have gone there with great advantage; but there is such a strong feeling in the colony on the subject, that I do not think they would ever consent to receive them. The accounts from other colonies, where I believe in early days it was very badly managed, have given them the idea that all female convicts are alike; that they are all prostitutes and drunkards, and all the rest of it.

945. Earl *De Lawarr.*] Were there not some female convicts from Ireland that behaved very well?

A great many of the female convicts are quite as good as the female emigrants, and quite as easily managed, I believe; I do not speak from personal experience, but I should have no objection to try the experiment.

946. *Chairman.*] If, however, female convicts were sent out, there would still remain a considerable disproportion between the sexes, the number of female convicts being so much less than that of the male?

Yes, I should say there would.

947. Have you turned your thoughts to the best means of meeting that difficulty?

A good many Irish female emigrants married the ticket-of-leave men; there was no objection on their part; I think there were about 100 such marriages during the time I was there.

948. Would you think it desirable that some encouragement on the part of the Government should be given to female emigration to the colony, to diminish that disproportion between the sexes?

I think it would be exceedingly desirable.

949. Marquess of *Salisbury.*] Do you think it desirable that convicts should be allowed to have their families sent after them?

I think it is of very great importance. The Government always send their wives and families when they are applied for; we have had a good many sent out.

950. At whose charge?

The convict pays one-half of the cost, and the Government the other, out of the fund voted by Parliament for emigration purposes.

951. Are you aware of what is the expense of sending out a wife and children?

The charge made against the convict is 7 *l.* 10 *s.* for each adult, and half that for each child under 14.

952. Was there any complaint made by the colonists that the wives and families of those convicts became chargeable upon them?

I think there was only one instance in which that was the case, and that for no long period. The man was in prison when his family arrived; he was subsequently released, and took her out of the depôt.

953. *Chairman.*] Practically, has the colony of Western Australia sustained any evils arising from a disproportion of sexes?

No. It is a very remarkable fact that, during the whole time, there has not been a single case, or even suspicion of a case, of any unnatural crime in prison, and there has been only one case outside; and crimes against females are almost nil; I believe there have scarcely been more than three or four cases.

954. If, however, the number of convicts sent out were to be increased, you would think it proper that some corresponding measures should be taken to increase the number of female emigrants?

It would be absolutely necessary.

955. Earl *De Lawarr.*] Have not the colonists complained that the payment of part of the passage-money of the wife and family is virtually a tax upon them, inasmuch as it obliges them to give higher wages?

No;

No; I do not know that I ever heard that.

956. Viscount *Dungannon.*] What is the amount of the convict's passage out?

He has to pay in proportion to the length of his sentence: a seven years man has to pay 7 *l.* 10 *s.*; a 10 years' man, 10 *l.*; and a 15 years' man, 15 *l.*

957. Then, according to that, it would take a 15 years' man three years to pay off his passage-money?

Yes; that is the time he has to serve on ticket-of-leave before he gets his pardon.

958. Does he ever get his family sent out before his time for conditional pardon arrives?

Yes; he gets them sent out while he is on ticket-of leave.

959. Then he has to pay his proportion of their passage as well as his own?

No; his own passage-money goes towards that; his own passage-money would bring out his wife and two children; if he has any more children, he would have to pay for them in addition.

960. Then a ten years' man would take two years to pay off his passage-money?

Yes; that is the time he has to serve before he gets his conditional pardon; they pay in proportion to the length of their sentence. The object is to prevent their having more money than is absolutely necessary during the time of their being on ticket-of-leave. That, I believe, was Lord Grey's idea.

961. Earl *De Lawarr.*] Does that pay both his own passage out and the passage of his wife and family?

It is allowed to count for that.

962. Viscount *Dungannon.*] You say that for a 15 years' man it takes three years to pay the expense of his passage. Supposing, during that period, he applies and gets permission for his wife and family to be sent out to him, does the money which he has hitherto paid go towards paying the expense of his wife and family coming out, or is that a separate matter?

It goes towards the expense of his wife and family coming out; it has been allowed to count for the wife and family. They are not obliged to pay for themselves and for their wife and family too.

963. Then he has virtually nothing more to pay than his own passage, whether his wife and family come out or not?

Precisely; but if his own passage-money will not cover the whole expense, he pays the balance.

964. But, generally speaking, it will go a good way towards it?

I do not think it will, because those men that apply have generally a good many children.

965. Earl *De Lawarr.*] So that, generally speaking, they have something to pay extra?

Generally speaking, they have something to pay extra.

966. *Chairman.*] What provision is made for the religious instruction of the convicts?

There is an English chaplain appointed to the prison, and a Roman Catholic chaplain; and there are three chaplains in the out districts, partly paid by the Home Government and partly by the colony.

967. Are those clergymen receiving a salary from the Government?

The three clergymen I refer to in the out districts are paid partly from the Home funds. The officers of the Establishment are paid solely by the Government.

968. Marquess of *Salisbury.*] Can you state the amount of revenue raised in the colony?

The revenue of the colony for the next year, I think, was estimated at 36,000 *l.* or 38,000 *l.*

969. What are the principal items of which that is composed?

One-third

*Captain E. Y. W. Henderson, R. E.*

1st July 1856.

One-third of it is revenue upon spirits. I think it is either 13,000 *l.* or 14,000 *l.* revenue upon spirits.

970. What is the remainder; is it rents from land?
There is a certain amount of rents from land, and land sales and licenses; but the revenue on spirits is the chief item of the revenue; the remainder is principally *ad valorem* duties on imported goods, &c.

971. Do you conceive that the rents for lands are high?
The squatting licenses are not high; the price of land is high; in my opinion a great deal too high; the fixed minimum price is 1 *l.* an acre; you are obliged to buy it in a block, and you must take the bad and good together; some of it may be worth 1 *l.*, but some of it may not be worth 1 *s.*

972. Has the high price of land the effect of discouraging emigration into the colony?
It has the effect of discouraging people settling on the land when they get out there; I could scarcely say whether it has the effect of discouraging emigration, but it certainly operates very badly; because the small capitalist spends all his money in buying land, and he has nothing left to go and improve it with.

973. Were you in the colony during the time that land was assigned to individuals in proportion to the funds and stock which they brought with them?
No; that was at the first settlement of the colony; it was 26 years ago; they were promised land for anything that they brought.

974. When was that system abandoned?
I do not know; I think Mr. Peel's grant was about the last; that would be about 14 or 15 years ago.

975. Were there any abuses existing under that system that led to its abolition?
I do not know under what circumstances it was abolished.

976. Viscount *Dungannon.*] Are you of opinion that the power of purchasing land at a lower rate, and perhaps a considerably lower one, would be a great additional encouragement to settlers?
Very great.

977. And by giving encouragement to settlers would also give great facilities to the employment of convicts?
No doubt.

978. You consider that the present price of land is too high to render it either a temptation to men to purchase it, or to make it advantageous to them when they have purchased it?
That is the universal opinion in the colony.

979. Considering the outlay that they would have to make before they could bring the land to anything like a productive condition?
Precisely.

980. Which I suppose they cannot hope to do without the assistance of convict labour?
Certainly; you cannot clear land without labour.

981. And free labour on any extensive scale would be very expensive?
Exactly.

982. Earl *De Lawarr.*] When you state that you think the colony could absorb from 600 to 800 convicts annually, is that upon the assumption that the free settlers would be steadily upon the increase in the colony?
I should hope that the free settlers would; but those ticket-of-leave men become employers of labour themselves, to a considerable extent; I should look to that as a considerable source.

983. If the price of land were considerably reduced, do you think that would be a great encouragement to small capitalists?
It would be a great boon to the colony.

984. Would it be likely to attract free settlers in sufficient numbers to enable the

the colony to absorb the number of convicts that you would recommend to be sent out?

Yes, I consider that Western Australia, generally, is a good sort of school; the pardoned men also disappear from the colony; they go to Singapore and other places, where there are openings for them, and seek their fortunes.

985. Do you think they become reformed characters?

Yes, they look for openings elsewhere; they go away in whaling vessels, and other ships; they gradually disappear.

986. Viscount *Dungannon.*] Some of them go to India?

Yes, some to India, and some to Singapore.

987. Marquess of *Salisbury.*] Have many of the men who so depart with conditional pardons ever been sent back to the colony?

None of them were ever sent back; there was one man, I heard, sent back from Melbourne to Adelaide, but he never came back to us.

988. *Chairman.*] You have had great opportunities of judging of the real feelings and minds of the convicts— is it your impression, generally speaking, that the religious instruction which you have stated to be given to the convicts, whether at home or in the colony itself, has had a really beneficial influence upon their minds, and that any considerable proportion of them have become in heart and mind reformed characters?

I think the greater proportion of them are very anxious to lead a new life if they can only get a chance.

989. Marquess of *Salisbury.*] And you believe, generally, that they have that chance in the colony?

I think they have; a good many of them have a chance, in one way or another.

990. *Chairman.*] The difference in their condition seems to be, that at home their former offences are remembered against them, while in the colony a chance of a new life is afforded to them?

Yes.

991. And you think that they are themselves much impressed with that difference?

I think they are; many of them expressed to me how glad they were to have an opportunity of commencing life afresh.

992. Earl *De Lawarr.*] And they are under no apprehension of being taunted with their former habits?

Not at all; they have been received by the colonists just the same as if they were free emigrants.

993. Viscount *Dungannon.*] They are never taunted with their former position as having been convicts?

No; I scarcely remember an instance. There was one case of a ticket-of-leave man who assaulted an individual that taunted him in that way; and he was told by the magistrate that he was quite right in having done so; the magistrate told the man that taunted him that he would not listen to his complaint. That was an exceptional case. As a general rule, they have been received by the colonists in the most gratifying way, and they have had every chance afforded to them.

994. *Chairman.*] Is the general conduct of the magistrates such as to give satisfaction?

Yes; I am under great obligations to them for the manner in which they have assisted me upon all occasions in carrying out the system.

995. What is the number of magistrates?

There is a resident magistrate in each district; I think there are nine districts, and there is a resident magistrate in each, paid partly by the local Government, and partly from the vote of Parliament.

996. What magistrates are there in Perth itself?

In Perth itself there is a police magistrate, and an assistant police magis-

*Captain E. Y. W. Henderson, R. E.*

1st July 1856.

trate; those are the only two paid magistrates in Perth. There are several unpaid magistrates.

997. Marquess of *Salisbury*.] What is the mode in which the police is paid?

The Home Government pay a contribution of 6,000 *l.* a year towards the police; the remainder is paid by the colony.

998. What does it amount to?

The estimate this year was 11,000 *l.* When Governor Kennedy arrived, he thought it was too much, and thought 9,000 *l.* was sufficient. He reduced it to that; and I believe it stands at 9,000 *l.* for this year. He considered that to be sufficient for the purposes of the colony.

999. How many policemen are there employed?

I forget the exact number of police: it is between 50 and 60.

1000. From what class of persons are they taken?

They are taken from emigrants and pensioners, chiefly. There have been a few conditional pardon men employed as policemen.

1001. *Chairman*.] Have you relinquished your office, or are you now on leave of absence?

I am now on sick leave of absence.

1002. Marquess of *Salisbury*.] Can you speak at all as to the produce of the land in the colony, and whether it is very likely to furnish sufficient provision for a large population?

There is no doubt that there is a avast amount of excellent corn land in the colony, and I believe it will grow enough to supply all the Australian colonies with corn. It is a beautiful country for the growth of the vine and the olive, and all that class of plants; in fact, it is an agricultural colony, not a pastoral one, and it requires capital. It is not like other colonies, where a man can go with a few pounds in his pocket and buy sheep, and let them increase, and make his fortune in that way; but it is an agricultural country, and it requires capital to work it. It possesses a beautiful climate, the most lovely climate I suppose in the world; and there is no reason to doubt that it will become a very fine colony; and I should mention, that I think it is more than possible that gold may be found there; therefore the Government should keep that in view.

1003. Earl *De Lawarr*.] Other minerals have been found?

Lead has been found. I have seen a specimen of gold which is said to have been picked up in the colony; in fact, the geological formation is almost the same as it is in Melbourne; the difference is this, that in Melbourne the flood that came subsequently to the gold era has gone across the flow of gold, and the consequence is, that they find it in the valleys; in Western Australia I think the flood has come the same way as the gold, and therefore it may be buried several thousand feet.

1004. Is there much rich pasture land on the banks of the river?

Yes, there is some good pasture land; but the land is principally corn land.

1005. Marquess of *Salisbury*.] It is not land that would support much stock?

Nothing in proportion to the other Australian colonies; there are some fine squatting stations, but not of any great extent for Australia.

1006. Are not there some copper mines?

Yes; they are working a copper mine now at Champion Bay.

1007. Would those mines, under any circumstances, furnish the means of employing convicts on the part of the Government?

The lead mine took a great many men off our hands when it was in full operation. It is now in the English market for sale; the company had not sufficient capital to work it; it is a very fine mine, and I think it will pay remarkably well, if it is properly worked.

1008. *Chairman*.] I understand you to state that the system of transportation to Western Australia gave great satisfaction, and was attended with very advantageous

tageous results, so long as the first system of sending selected convicts was adhered to?

Yes, I should say generally up to June 1854; that was the time we began to receive men of worse character.

1009. I understand your opinion to be also that, if the former system of selected convicts was again adopted, Western Australia might advantageously receive, and usefully employ, even the whole number of convicts that we should desire to send out?

I think so, judging from the number that are now sentenced to transportation.

1010. Viscount *Dungannon.*] Is it found that the convicts, whose crimes in this country were of a very enormous character, relapse again into crime in the colony, and are again brought up charged with crimes there?

Those men, in the return before the Committee, are all in prison now: those are not ticket-of-leave holders. In fact, I felt that they were unfit to be turned loose on the community: there is no doubt that there is a class of men who must be kept locked up.

1011. Then are they kept entirely in confinement to work in gangs?

No, they work just the same as the others; but they belong to a class that I am certain, when they are turned adrift on the community, will commit the same crimes, and come back again. They belong to a class of men that ought to be treated as lunatics, and kept locked up; that is the only way to keep them.

1012. Marquess of *Salisbury.*] Are you able to form any judgment of the proportion that the number of convicts bears to the number of the free population in the colony?

I believe the number of free emigrants that have been sent out since the convicts were there exceeds the number of convicts that have been sent.

1013. Very much?

No, slightly, I believe: it is stated in the Secretary of State's despatch, in answer to a memorial.

1014. *Chairman.*] Is there any other observation which you desire to add?

The colony has suffered a great deal from the uncertainty which has prevailed with reference to transportation: it has never been certain whether transportation was going to be continued or not; that has been a very great drawback. I think that if it is to be continued, it would be well that it should be decidedly settled. It is also of great importance to the colony that they should know how many they are likely to have, and the periods at which they are likely to have them. I observed in the evidence given before the Committee of the House of Commons, there was a great deal said about Irish prisoners: I should wish to put it on record, that a good many that were sent from Ireland were about the best convicts that we had. There was a large proportion of those that came that were in a very deteriorated condition when they arrived, but they improved very much upon the diet that they got, and the change of air: and I was assured by many people that they were about the best men they had.

1015. But, nevertheless, there was a prejudice against them?

There was at first, but it died away.

1016. You think that at present there would be no obstacle to sending out Irish convicts, as far as the feelings of the colonists are concerned?

Not at all; I think they would be very welcome.

The Witness is directed to withdraw.

*Lieut. J. Dayman, R. N.*

1st July 1856.

Lieutenant JOSEPH DAYMAN, R. N., is called in, and examined as follows:

1017. *Chairman.*] HAVE you had many opportunities of observing the coast of Australia?
I have been employed in surveying it; the north-east coast chiefly.

1018. In what years were you so employed?
From 1847 to 1850.

1019. You no doubt landed at various parts of the coast?
Yes

1020. Are you acquainted with the Gulf of Carpentaria?
I am not; I have never been in the gulf.

1021. Have you observed any district that seemed to you favourable for the foundation of a new colony, if such should be desired, especially with a view to the reception of convicts?
I have.

1022. Will you have the goodness to state it?
Port Curtis, which is nearly on the tropic of Capricorn.

1023. Port Curtis is a district where Lord Stanley and Mr. Gladstone had contemplated a settlement?
A settlement was formed there by direction of Mr. Gladstone, and given up in 1846.

1024. Would not objections exist to Port Curtis, on account of its neighbourhood to the Moreton Bay settlement?
I have heard so lately; it was not so when I was there; the settlers had not then got near Port Curtis.

1025. You think that if the settlement had been formed when it was intended, in the year 1845, advantage would have resulted from it?
I think there would.

1026. But the present state of feeling in Moreton Bay would present difficulties?
Not in Moreton Bay; but I think in New South Wales objections would be made.

1027. Have any other districts occurred to you along the northern coast as suitable for settlements?
For a military settlement, Cape York would be very desirable.

1028. What do you mean, precisely, by a "military settlement"?
I mean merely a military post to assist shipwrecked seamen.

1029. But not for the reception of convicts?
Not for the reception of convicts.

1030. The Gulf of Carpentaria you have not visited?
I have not.

1031. Have you had occasion to visit the mouth of Victoria River, and further to the westward?
I have been along the coast, that is all.

1032. Viscount *Dungannon.*] What was the reason why the projected colony was abandoned at Port Curtis?
Because the system of transportation, I think, was altered at that time.

1033. *Chairman.*] Do you consider that you are acquainted with the country at Cape York?
I am intimately acquainted with it; I was there for a month together, at different times.

1034. You do not consider it eligible, except for what you designate as a military settlement; you do not think it would form a good foundation for a new colony?
I think

I think it is hardly large enough to look forward to as the site of a large township, or the nucleus of a new colony. *Lieut. J. Dayman, R.N.*

1035. What climate do you ascribe to that district? 1st July 1856.
It is very hot.

1036. Do you consider it salubrious?
I do; perhaps the most salubrious point on the coast; there are constant showers, and it is always exposed to sea breezes.

1037. When you say "on the coast," you mean on the coast not yet settled?
On the coast not yet settled. There is another point which I have noticed; it is Broad Sound, about Cape Palmerston. The rise and fall of the tide in Broad Sound is greater than in any other part of the Pacific; it is from 25 to 30 feet, and the country in this neighbourhood is finer than any I have seen on the north-east coast.

1038. Did you land there?
We did not land, but the whole coast line has been closely examined.

1039. But not having landed, you can say nothing beyond its appearance from the sea?
Nothing beyond its appearance from the sea.

1040. Has the whole of the northern coast been well explored in a scientific point of view; are the charts clearly laid down?
The whole of the north-east coast is accurately surveyed.

1041. You have never made any land journey into the interior of Australia?
I never have; but we landed an expedition at Rockingham Bay, for the exploration of the Cape York peninsula, which terminated, unfortunately, in the death of its leader.

1042. Is the navigation generally good along the northern coast of Australia, or does it present difficulties; are there any shoals?
There are many shoals, but they are so accurately laid down in the charts, and the water is so smooth, that I do not consider the navigation a difficult one, unless great speed is an object.

1043. You adverted just now to shipwrecks as a reason for a military settlement at Cape York; is part of that coast especially exposed to shipwrecks?
It is a point which all shipwrecked crews pass in seeking for safety; many ships are wrecked to the southward and eastward, but their crews pass Cape York on their way to the Dutch settlements for refuge.

1044. At present there is no settlement there of any kind?
None whatever.

1045. Lord *Wharncliffe*.] Are there not dangers also from the natives there?
Yes, the natives are of a most treacherous disposition in the islands north of Cape York.

The Witness is directed to withdraw.

Mr. JOHN MILES is called in, and examined as follows: *Mr. John Miles.*

1046. *Chairman*.] YOU are acquainted with Vancouver's Island?
I was there six months.

1047. How lately?
In the year 1854. In June 1854 I left it.

1048. What is the present population of that island?
The white population is between 700 and 800, and I think the Indian population is estimated at about 20,000.

1049. What are the terms on which those two classes of the population, the white and the Indian, live together?

*Mr. John Miles.*

1st July 1856.

On very friendly terms; the Indian population do the farm labour for the white population; there is no collision.

1050. They are then together in the position of the employers and the employed?
There are several large farmers who have those Indians to work for them; but the Indian population is generally very lazy, and do very little work indeed.

1051. Is the white population mostly of the Anglo-Saxon race?
The whole of them, except some Swedes and Norwegians that we took out to work our coal-mines, and some Canadians, retired servants of the Hudson's Bay Company.

1052. Under the government of the Hudson's Bay Company?
Altogether.

1053. Is a Governor appointed for Vancouver's Island?
Yes, Governor Douglas, appointed by the Crown.

1054. Where does he reside?
At Victoria. I have brought some charts here, if your Lordships desire to see them (*producing the same*).

1055. Did you fill any official situation in the island?
No, I simply went to inspect the accounts for the Hudson's Bay Company.

1056. And you resided there for six months?
The last time I was there I resided for six months; the first, only a fortnight.

1057. What opinion did you form of the climate?
The climate is equal to, if not milder than that of England, in the southern district in which I was.

1058. What opinion did you form of the soil?
The soil is very superior; it is alluvial, very dark soil, very rich.

1059. Does it produce corn and other crops in abundance?
Yes.

1060. How is it for pasture?
The pasture is not good until we have laid pastures of our own; the native pastures seem to wear out.

1061. Are there large herds of cattle?
We have sheep and cattle there. I do not recollect the statistics of either the one or the other; but they are at the Hudson's Bay House, together with statistics of population, to which Governor Douglas's signature is attached.

1062. Have you ever turned your attention to the question how far Vancouver's Island might be a desirable station for the reception of convicts?
When I was out there I crossed to the island with the Honourable Mr. Charles Fitzwilliam. We were discussing that very subject at the time, and we both agreed in opinion that it would be a very desirable place; but there would be the question of expense.

1063. The expense would be much increased by the necessity of going round Cape Horn?
Yes; but it might be considerably diminished by the ships taking back spars for the dockyards in this country. The spars are excellent; the best spars in the world.

1064. And near the coast?
Yes, near to the coast.

1065. The letters, as the Committee have been informed, come by an overland route?
Through the American mails.

1066. But the settlers, and their baggage, go round by Cape Horn?
Yes;

Yes; I passed, myself, by the Isthmus of Panama, both going out and coming back.

1067. Can you give the Committee any information as to the amount of the passage-money round Cape Horn?
We took out some people for the Puget Sound Agricultural Company; 20 *l.* I think it was, that was charged for them.

1068. What is the average length of the passage?
From four months and a half to five months, I believe, our ships generally take. The last vessel that arrived, a few days ago, took a little more than four months; she is a fine fast sailing ship.

1069. The American territory being on the other side of the Strait, might there not be great facilities of escape for convicts across the Strait?
There would have been previously to the last Indian war that broke out in Oregon; but, in my opinion, the spirit of antagonism is so great between the Americans and the Indians, that the latter would keep as far away from Americans as possible. That would be the only means they would have of escaping, except by two or three boats of illicit spirit dealers that visit the island from the mainland.

1070. How many miles across is the Strait?
I think from Vancouver's Island to the mainland, near Whidbey Island, is about 30 miles. There are a great many little islands that are not marked on the map which can be touched at; so that it is much easier to cross by a canoe than it appears by the map; I think the distance there is 30 miles. Crossing from the point to the south of Victoria the distance is about nine miles.

1071. You consider that the territory possesses considerable recommendations for the reception of convicts?
Yes. The soil is good and the climate is good; and the coal mines would give them ample employment.

1072. Is there a large supply of coal there?
A very large supply of coal. Here is a map of the coal mines (*producing the same*).

1073. Do they belong to the Hudson's Bay Company?
Yes.

1074. Does the supply of coal, as far as you can judge, appear to be very large?
Yes, it is very large.

1075. Is it only at one point that those coal mines exist, or are they found elsewhere?
We have found coal mines in this place; and prior to that, we found them elsewhere; but the coal was not sufficiently good to work; it was too slaty.

1076. Are the coals used for export?
We export them to San Francisco.

1077. Is that the coal commonly used in San Francisco?
The coal that is principally used in San Francisco is from different parts of America, and a great quantity from Cardiff. We have not worked this coal sufficiently to be able to meet their demands.

1078. You think that with convict labour those coal mines might be worked to a much greater extent?
Undoubtedly.

1079. And to considerable profit?
To great profit. The great difficulty we have with our miners is, that directly we get them over, they try to run away to get to the gold diggings. Of course if you had convict labour, you could command it.

1080. Would not the convicts still more eagerly seek to go to the gold diggings?
The convicts might wish to go, but they could be compelled to stop; while you cannot compel free settlers.

*Mr. John Miles.*
1st July 1856.

1081. You could, of course, compel them, so far as legal restrictions went, but would you have effectual means of keeping them?
Means would have to be adopted for that purpose.

1082. In what way, practically, would you prevent a convict going away to the gold diggings, if you cannot prevent a free labourer?
I am under the impression that convicts have overseers who can take care of them and look after them.

1083. But with regard to convicts who have obtained tickets-of-leave, you would not be able to prevent them from going?
No; I do not see how you could give them tickets-of-leave.

1084. Lord *Wharncliffe.*] Are not the means of concealment in the bush very easy there?
Yes.

1085. There is a great deal of thick forest?
Yes; there is a great deal of thick forest.

1086. *Chairman.*] How far would the native Indians be affected by the convicts; is it not to be feared that some hostile spirit might be produced between the two classes?
No, I should think not.

1087. Lord *Wharncliffe.*] Not even as regards the native women?
Perhaps it might, as regards the native women.

1088. Viscount *Dungannon.*] You say you have only been twice in the island, once a fortnight, and once six months; during that period of six months, had you many opportunities of knowing much of the native population?
Of the part I was in, near Victoria.

1089. *Chairman.*] You stated that they were employed as labourers in the service of farmers?
Yes.

1090. Viscount *Dungannon.*] Is farming carried on to a great extent in the island?
Not very largely hitherto; the Pugets Sound Company and other farmers had about 1,500 to 1,600 acres under cultivation, and we have two grazing farms.

1091. *Chairman.*] Have the private settlers any large grants of land in the district?
They buy all they have.

1092. Have they bought much land?
Some of them have bought 500 or 600 acres.

1093. At what price per acre?
£. 1 per acre.

1094. Viscount *Dungannon.*] Is the price considered too high?
It is considered too high, but that is the price Government put upon it.

1095. Do they get many purchasers at that price?
They have had no purchasers the last twelve months.

1096. If the price were lower would they be likely to get many purchasers?
It might be an inducement for settlers to go out from this country, but it would be very doubtful.

1097. Earl *De Lawarr.*] Is the land which the settlers have acquired chiefly under corn cultivation, or is it pasture?
Chiefly corn.

1098. *Chairman.*] How far are the coal mines from Victoria?
About 70 miles from Victoria.

1099. Are they on the coast where you can load ships?
Yes; they are on the inside of the island, between the south-eastern part of the island and the main shore.

1100. The

1100. The main difficulty in the way of the reception of convicts seems to be, first, the possibility of their escape to the gold diggings?
Yes, if there was no control over them.

1101. And, secondly, the chance of escape to the bush?
Yes; but they could do nothing in the bush except they had laid their plans to escape afterwards; they would be sure to starve there.

1102. Might they not live as the Indians themselves live?
The Indians lay up large stocks of fish at different seasons of the year, and they grow potatoes; they live upon these principally.

1103. Lord *Wharncliffe.*] Is there no game in the bush?
Yes, there is game, but not in very large quantities.

1104. Earl *De Lawarr.*] There is no large amount of stock maintained in the island?
Not very large.

1105. *Chairman.*] Are the coasts of Vancouver's Island very productive of fish?
There are immense quantities of fish; they have salmon, codfish, herrings, and some trout in the smaller streams.

1106. Is the country one that is likely to attract free settlers?
The country is very beautiful; the only drawback is the distance from this country.

1107. Viscount *Dungannon.*] Is it generally a bad passage round Cape Horn?
We have never heard many complaints from settlers of the passage out. Those that have come home have had a very pleasant passage homeward, they told me.

1108. Did you yourself come home that way?
No, I came home by the Isthmus of Panama.

1109. *Chairman.*] Has the settlement been much injured by the opening of the gold fields in California, and the colony consequently losing many settlers?
Yes.

1110. Does that drain on the population still continue?
Some that left, on finding that they could not do so well in gold digging as they anticipated, have returned; so that the population now is about equal to what it was before.

1111. Is there any mineral production in the island besides the coal mines you have adverted to?
I have not seen any; I have heard of iron being there, but it has never been worked.

1112. Lord *Wharncliffe.*] Do Americans ever come to work in the island?
They come to work timber for house-building; they are very expert at that.

1113. *Chairman.*] Did you hear any conversation among the settlers as to the reception of convicts, or was the subject not discussed?
I did not like to hear it discussed when I was there: but I did hear conversations on the subject nevertheless. Some seemed favourable to their reception, others not.

1114. Viscount *Dungannon.*] How do you think the prospect of having convicts there would be regarded; would there be much advantage anticipated from convict labour?
Probably they might not like it at first; but I think the advantages would be very great to them in getting labour.

1115. Are many public works, such as roads and bridges, required for making communications through the island?
They have lately been opening good roads and building bridges. Here is a sketch of one of the bridges built by the surveyor across the harbour—(*producing the same*)—it is made entirely of wood.

1116. What is the length of it?
I think 600 feet: it was built in the winter of 1854–55.

 1117. Are

*Mr. John Miles.*

1st July 1856.

1117. Are there many more works of that description likely to be carried into effect in the island?
Two small bridges have been built.

1118. Are there any more in contemplation?
Nothing more at present that I know of.

1119. Do you think that the great distance of Vancouver's Island from this country forms a great obstacle to free settlers going out there?
That is the generally received opinion.

1120. *Chairman.*] Is the harbour of Victoria a very good one?
It is a good harbour, but small, and rather shallow. Esquimalt is a splendid harbour; that is where the ships of war anchor.

1121. How did it happen that the principal settlement was formed at a distance from the best harbour?
The land about Victoria is better; and when we first established it we were growing corn, and getting butter, and so forth, to send to the Russians at Sitka. That port was established more for that purpose and for Indian trade than anything else.

1122. I see on the plan of Victoria, a proposed pier; has that pier been built since?
It has not been built.

1123. Earl *De Lawarr.*] Do you think that the land is capable of much improvement, and that it will eventually maintain flocks and herds?
Undoubtedly.

1124. Viscount *Dungannon.*] Is it good pasture land?
It will be. We have a sheep-farmer in the island who has about 1,000 sheep, and another on an island near Victoria who has about 4,000.

1125. As far as the present population is concerned, supposing even that there should be no great increase, in consequence of the distance of the colony from England, would there still, in your opinion, be sufficient grounds to believe that the aid of convict labour would be desirable?
I should say so.

1126. Even as things are now?
Yes.

1127. Even with the prospect of a very small additional number of free settlers coming out, on account of the distance from England?
Yes.

1128. How many convicts do you suppose the island might absorb in the course of a year?
I have not the least idea.

1129. *Chairman.*] Is there any prospect of any settlement on the part of Americans from the United States?
No; on the American side of the Oregon, till the last two years, they were allowed, for married men, 640 acres each, and 320 for single men; so that they get land there for nothing, while they would have to pay 1 *l.* an acre on the island. I am not aware whether that law is in existence still, but it was so when I was there in 1854.

1130. Do English trees and vegetables, when planted, seem to thrive in the island?
Remarkably well.

1131. Besides the fir tribe, what are the native trees?
The oak tree, many kinds of fir trees, and spruce; there is one species of arbutos, and a very fine tree it is too. The flora of the country is remarkably beautiful. The statistics of the island we have got if your Lordships should require them.

1132. Will you be so good as to send them, that they may be appended to your evidence?
I will do so.

1133. Viscount

1133. Viscount *Dungannon.*] Are the Hudson's Bay Company the parties who are working the coals?

They are working the coals.

1134. Is labour at present expensive in the island?

Yes; labour is expensive there.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Friday next, One o'clock.

# *Die Veneris*, 4° *Julii* 1856.

LORDS PRESENT:

| | |
|---|---|
| Marquess of Salisbury. | Viscount Dungannon. |
| Earl Stanhope. | Lord Colchester. |
| Earl De Lawarr. | Lord Wharncliffe. |
| Earl Chichester. | |

THE EARL STANHOPE in the Chair.

Evidence on the Act 16 & 17 Vict. c. 99, on Transportation.

*Colonel J. Jebb, R.E., C.B.*

4th July 1856.

Colonel JOSHUA JEBB, R. E., C. B., is called in, and examined as follows:

1135. *Chairman.*] YOU have had great experience in the disposal of convicts?

I have been connected with the convict prisons since the year 1838, more or less; but especially since the formation of the present Board of Management; I have been chairman of it.

1136. For how many years have you been chairman?

Since 1849.

1137. Will you state to the Committee what steps were practically taken when transportation ceased, except of the colony of Western Australia?

At the time that transportation ceased, there were in the convict prisons about 6,370 men under sentence of seven and ten years' transportation. The attention of the Secretary of State for the Home Department was immediately directed to this circumstance, because by the Act of Parliament, sentences of seven and ten years' transportation were abolished; and the means of carrying them out were too limited to admit of their being enforced. It was therefore necessary to take some immediate steps regarding the terms upon which those men should be dealt with. The determination of this question occupied a considerable period, for there were many questions of importance connected with it. It had been the practice in former years (I refer now to perhaps 15 or 20 years ago) to commute all sentences of seven years' transportation into imprisonment in the hulks for half the period, provided the conduct was satisfactory. That was one point that might be taken as a datum on which to fix the periods for those men. Another consideration was, that they had had before them, from the first day of their reception in the Government prison, a notice which set forth, that if their conduct was exemplary, a seven years' man might be embarked with a ticket-of-leave in two years, and a 10 years' man in about three years. Taking these circumstances, and the disappointment which those men experienced, into consideration, Lord Palmerston, who was then Secretary of State, determined to relax in some measure the rule of making them serve half the period.

1138. Marquess of *Salisbury.*] What year was that in?

It was in 1852. I can best answer the question that was put to me as to the course taken with respect to those men, by reading a passage from my Report for 1854–55, of which I have received a copy this morning from the printer:—"It was not only of importance to determine what could be done with those men whose sentences could not be carried out, but to prevent, as far as possible, sentences of transportation being passed by the substitution of some other punishment. It would have been manifestly absurd to persevere in

*Colonel J. Jebb, R.E., C.B.*

4th July 1856.

passing one sentence with the avowed intention of enforcing another. Hence the introduction of the Bill for altering the law, and rendering it legal in certain cases to substitute penal servitude at home, with the additional power to impose the restrictions of a license on any convict released before the term of his original sentence had expired." There were, as I have said before, 6,370 under sentences of seven and ten years, and others for longer periods, who, from circumstances, could not be all transported. What was to be done with them? It appeared that a small proportion of them might be advantageously sent to Western Australia; but with regard to the remainder, there was no course open but to commute the sentence into imprisonment. The precedents of former years would have led to their being pardoned after imprisonment for one-half of the period of the sentence of transportation; but, in order to provide some additional security to the public, powers were taken for granting licenses, in the nature of a revocable pardon, and such licenses are the tickets-of-leave, of which so much has been heard. Certain restrictions were thus enforced, and a degree of control maintained during the whole period for which they had been transported, the operation of which may have restrained many from the commission of crime.

1139. *Chairman.*] Will you explain the origin of the tickets-of-leave?

The origin, I believe, is to be found in the original scheme of convict management instituted by Lord Stanley and Sir James Graham in Van Diemen's Land.

1140. Previously to that time, were there not tickets-of-leave in the Australian colonies?

Not that I am aware of; but the system was distinctly recognized at that time. It was the first establishment, as far as I am aware, of distinct probationary periods for all convicts.

1141. Will you explain how it became more prevalent in England?

They were recognized in England at the time of the passing of the Act of 1853; and, as I stated just now, it was adopted as an additional restriction upon the men who were eligible for release, after the expiration of three or four years' confinement in this country.

1142. What system has been pursued with regard to the selection of convicts who should be sent to the colony still receiving convicts, namely, Western Australia?

The understanding with Western Australia was, that the best of our convicts should be sent there; they consented to receive them upon those terms; and the best and most useful men, artificers and others, who were competent to execute works, were selected for the first two or three years; after that the selection was necessarily more general.

1143. Are you not aware that great complaints have been made on the part of the colony of the change which you have now mentioned?

I have heard that complaints are beginning to arrive. The conduct of the men has generally been represented as exemplary so far as I have understood.

1144. What grounds had you for the change which has been made?

The ground was the much smaller number that we had to select from since the passing of the Act of 1853.

1145. Earl of *Chichester.*] There have been very few sentences to transportation?

Very few indeed. Not more than one-tenth the number who were formerly sentenced.

1146. Marquess of *Salisbury.*] Does that arise from a diminution of crime, or from a different sentence being pronounced?

I think it must be from a different sentence, and from a different view being taken. My opinion is, that it is an indication of a more just gradation of punishment: formerly there were but few sentences between six months' imprisonment and seven years' transportation.

1147. *Chairman.*] You are aware, however, that Lord Grey and other competent authorities in Parliament have lately complained in strong terms of the provision

provision of the Act of the 16th of Victoria, by which a different scale of imprisonment was substituted since transportation ceased, and that the question of retaining the convicts at home was thought to have a bearing upon the period of years for which they should be confined?

I have heard complaints, but I have no exact knowledge of the nature of those complaints. As far as I recollect the discussion at the time the Bill was laid before the Houses of Parliament, it was thought that four years' penal servitude was a fair average commutation for a sentence of seven years' transportation; and from the minimum a scale was laid down in the Act. Those periods, after careful consideration, were deemed to be equivalents to transportation: hence has arisen a difficulty in administering a mixed system, where some men are under sentence of penal servitude, and others under sentence of transportation. It involves this anomaly, that while the sentence of transportation is deemed to be the heavier sentence of the two, in working it out it practically becomes the lightest, because you cannot carry out any large proportion of the sentence of transportation by penal servitude, and then transport a man, because a certain period of penal servitude is deemed to be equivalent for the whole sentence of transportation, giving him his release at home free.

1148. Marquess of *Salisbury.*] You have stated that four years' penal servitude is reckoned an equivalent to seven years' transportation; you have stated also that there is now a more just gradation of punishment than formerly existed as between six months' imprisonment and seven years' transportation; from your knowledge of prisons, are you of opinion that imprisonment upon the separate system in the severest mode can be carried on consistently with the health of the prisoners, for a period approaching to even two years?

As regards the separate system I have had some experience. The conclusion at which I arrived, when I was associated with Lord Chichester and others as a Commissioner of Pentonville, was, that the sentences might be safely extended to 18 months, and even a little longer, in particular cases. But as regarded the moral objects of discipline, I always was of opinion, that if the average was made about 12 months (so that some prisoners might be kept for 18 months or upwards, and others released at an earlier period), that period of probation would be sufficient for aiding in the subsequent discipline of association on public works. Sir James Graham, in his original instructions to the Commissioners of Pentonville, was of opinion that the moral objects of discipline would be gained in that time; and I think experience generally (of course it cannot apply to all cases) has been confirmatory of that view.

1149. My question applied not to the moral discipline but to the health of the prisoners?

I would combine health and moral discipline too. But, with respect to working out a longer period than 12 months, that opens a new question altogether. In county prisons there has been very little experience as to working out very long periods. As regards the sentences to penal servitude, there is no difficulty in enforcing them, even to the extent of life.

1150. *Chairman.*] If certain periods, whether of imprisonment or of penal servitude, were by the former law imposed when the punishment was to be passed in a colony, what reason is there for shortening all those periods when the punishment is to be inflicted at home?

Because the period for transportation was never contemplated to be a period for imprisonment, and never was so carried out, though there was the power to do it, if the man became absolutely incorrigible; there was the power to keep him in prison in this country, or in the colonies, during the whole period of his sentence; but as a general rule that never has been acted on.

1151. But the four years which they pass at home, and which are equivalent to seven years in the colony, are not four years of imprisonment?

Yes; at least as far as penal servitude may be regarded as imprisonment.

1152. Viscount *Dungannon.*] They are not immured the whole of the time within the walls of a prison?

No; the present system is to give to each prisoner only nine months of separate confinement; that, I think, is less than would have a useful effect generally;

*Colonel J. Jebb, R. E., C. B.*

4th July 1856.

generally; but that is the regulation. In penal servitude, they go to public works, where they remain during the whole period of their sentence.

1153. Lord *Colchester.*] During that time are they kept in places of confinement?

Yes, in the strictest confinement, when not at work.

1154. Under the old system, they were confined in the night in a building, and they worked in the daytime in the open air?

Yes; they were confined in the hulks.

1155. Earl of *Chichester.*] Was not the sentence of transportation, when carried out with respect to a convict on board the hulks, always shorter than the period of his sentence?

Yes; one-half. As regards the hulks, there is one at Portsmouth for invalids, with a small one alongside, which is an hospital; and there are two at Woolwich, with a small tender for an hospital. It is, however, satisfactory to me to state, that the two hulks at Woolwich are to be broken up altogether, because the new prison at Chatham will be ready in the course of a short time. The invalids on board the "Stirling Castle" will then be transferred to the "Defence" hulk at Woolwich; and I am authorized to commence immediately the erection of an invalid establishment on shore for those men, when all the hulks will be finally abolished.

1156. *Chairman.*] What is the total number of prisoners confined at present in the hulks?

The "Defence," which is fitted up for 528, is occupied by 393; the "Warrior," which is fitted up for 450, is occupied by 405; and the "Stirling Castle" and the "Briton," which are fitted up for 420, contain 244.

1157. What is the sentence passed upon the men now confined in the hulks?

The greater proportion of them are under a sentence of penal servitude, but a few are under a sentence of transportation.

1158. Viscount *Dungannon.*] For what length of period of transportation? Generally from 15 years upwards.

1159. The utmost limit of transportation for years is 20 years, is it not? Sometimes two sentences are passed, which reach far beyond 20 years; there is no particular limit between 15 years and life.

1160. *Chairman.*] Did I rightly understand you to state, in reply to a former question, that under the operation of the Act of the 16th of Victoria, what was intended for the heaviest punishment had practically become the lighter one?

I stated that a difficulty had occurred in working the combined system, in consequence of its being unjust to carry out very long periods of penal servitude followed by transportation; it has never been the practice to do so.

1161. Does not that show, that the Act of the 16th of Queen Victoria requires amendment?

I do not know that it requires amendment; the difficulty arises in the administration of a combined system.

1162. Will you explain that a little further?

We have had in the convict prisons, during the last two or three years, many men under sentence of 14 years' transportation, and upwards, who are now mixed up with the new penal servitude men under sentence for four, five or six years; the former were entitled, under the notice to which I before alluded, to be embarked at periods of about three years, with their tickets-of-leave for Western Australia. Now a man with a sentence of six years' penal servitude would be very glad to exchange with a man under a sentence of 14 years' transportation, if he could get away in three years; and, therefore, as some Judges and Chairmen of Quarter Sessions pass long sentences of penal servitude rather than those of transportation, it has created a difficulty in the working of the system which I have endeavoured to explain.

1163. Is not there a considerable approximation between the system that is now pursued in England, that is, imprisonment followed by penal servitude, and

and the system which Lord Stanley, as Secretary of State, established in the Australian colonies?

So far as regards there being two probationary periods (and the ticket-of-leave may be taken perhaps as a third), there is considerable similarity; and the principle of discipline is the same; it depends upon successive periods of probation and removal from the one to the other, the period in each being determined by the conduct of the individual: it is a most excellent principle.

1164. Then, the principle being the same in both cases, what grounds can be alleged why the periods should now be different; why should the Act of 16th Victoria fix different periods of punishment to be undergone in England from those which were undergone in the colonies?

The periods were not defined in any Act; the sentence was to transportation, and the mode in which that sentence was administered was under regulations established by the Secretary of State.

1165. Is not it the fact, that a lesser sentence of punishment is passed now, when the punishment has to be undergone at home, than was the case when transportation followed?

Apparently a lesser sentence, but in reality a more severe imprisonment is carried out; the sentence, as now administered, is deemed more severe than it was before.

1166. Viscount *Dungannon.*] You mean as far as regards the character of the imprisonment?

Not altogether.

1167. Do you mean as to the length of time, or as to the manner in which the punishment is administered?

The length of time: it is administered in much the same way. Under the former system a seven years' man was entitled to be embarked with a ticket-of-leave at the end of two years; he is now confined without remission for four years; but gains some small privileges by successive stages.

1168. Marquess of *Salisbury.*] Is it not the practice, unless there is anything against him, to release him before the end of the penal servitude?

Only in very exceptional cases; it is not made a general rule.

1169. Lord *Chichester.*] I understand you to say there was considerable inequality of punishment existing before the late Act, which provided for penal servitude; are you aware of any complaints being made by Judges or Magistrates of the inequality which now exists, in consequence of the practice of sentencing to imprisonment, with hard labour, being seldom extended beyond 12 months, whereas the next step in the degree of punishment for offences next in importance is that of penal servitude for a minimum period of four years; and that consequently the step, in the majority of cases, is from one year or a year and a half imprisonment to four years' penal servitude?

I am not aware of having heard complaints about it; but it has always appeared to me a great anomaly in the administration of justice, and a much more striking one in former times than perhaps it is now.

1170. Do you see any practical objection to reducing the minimum of penal servitude to a lesser period than four years?

One objection to very short terms in Government prisons is the mixing up men under long and short sentences: it establishes a communication between the prisoners and persons outside, and it does not afford such a period of confinement as will give an opportunity of reclaiming the man. It is a very striking fact, that starting as we do with a much worse class of men than those that are usually committed to common prisons, so large a proportion of those men, after having been three or four years under discipline should have turned out well, and endeavoured to regain an honest position in society, and that so very large a proportion of the short-time prisoners, who circulate through the county gaols, should constantly continue in a career of crime: this is shown by the great difference in the amount of re-committals.

1171. Marquess of *Salisbury.*] Have you not heard complaints from the colonies that the very worst men that were sent to them were men who came from Pentonville?

*Colonel J. Jebb, R.E., C.B.*

4th July 1856.

I think there are strong opinions the other way; I never myself regarded Pentonville alone as being the best training for release, because at Pentonville men have no opportunity of committing themselves at all, and, therefore, they were more easily led away on being released than others; but as far as regarded the moral state of the men, there was no question that the men released from Pentonville were in a better state than others.

1172. Lord *Colchester.*] You have stated that it was the practice to release men from the hulks when half their period of sentence had expired; how long had that practice existed?

I believe ever since the first establishment of the hulks.

1173. Was it the universal practice?

It was the universal practice at one time; but when Sir James Graham became Secretary of State, instead of pursuing that system, the principle was laid down that all should be transported under the system then established by himself and Lord Stanley.

1174. Viscount *Dungannon.*] That was in 1841?

Yes.

1175. Earl of *Chichester.*] Assuming that it is your opinion that the separate system is the only proper system of imprisonment, properly so called, and that from 18 to 20 months is the extreme period to which imprisonment, with separate confinement, ought to be carried, and that the next kind of punishment in degree is a minimum of four years' penal servitude, do not you think that some other punishment is necessary to fill up the gap between those two very unequal periods of duration of sentence?

I have always been of that opinion.

1176. Are you able to state to the Committee your opinion as to what would be the best mode of supplying that deficiency, whether, for instance, it should be by relaxing the system of separate confinement in the prison during the latter period of imprisonment, or by reducing the minimum of penal servitude?

I think it might be attended with difficulty to introduce the two systems of discipline, of separate confinement and association, in the same prison. It would not be absolutely impracticable, but I think it would be open to objections. I should prefer, if sentences of two and three years were passed, as intervening between the short sentences of 12 months' imprisonment, and the minimum of penal servitude, that there should be prisons expressly appropriated for the purpose; and the Committee of the House of Commons of 1850, I think, were of that opinion.

1177. *Chairman.*] Reverting to the complaints which have been made from Western Australia within the last few weeks or months, with respect to the class of convicts that have been sent out recently, have those complaints been brought officially before you?

No.

1178. You stated just now that the cause of the change in the class of convicts sent out more recently, as compared with the convicts sent out some years before, was the more limited range of choice under the last Act?

Yes.

1179. Was that the sole reason, or did the authorities at home desire to get rid of the incorrigible cases?

No doubt the authorities would have been very glad to have got rid of some; but, knowing the understanding which existed with Western Australia, the better class of men were generally sent, so long as there was a choice.

1180. Viscount *Dungannon.*] Are you aware that there have been some lately sent out to Western Australia, whose crimes have been of a very flagrant description, in fact, little short of the crime of murder; and that the result is, that they can make no use of those persons, and they are afraid to turn them loose upon society?

The conduct of prisoners depends in some measure upon the nature of the discipline to which they are subjected. Many men convicted of serious crimes are not bad men if they happen to be treated as they like.

1181. Will

1181. Will you explain what you mean by being "treated as they like?"
Some prisoners require very different treatment to others. It is necessary, in some measure, to adapt the discipline to individual cases. A man, if he is under a kind master, will serve him well; but if he is under one who ruffles his temper, he will act under its influence, and behave ill.

1182. Are you aware that some of the men who have been sent lately to Western Australia had committed such flagrant offences, and appeared to be persons of such desperate character, that the authorities in the colony had been afraid to assign them to any one, or to turn them loose at all; and that they have felt it necessary to keep them in absolute confinement?
I am quite aware that some have been sent of that character lately.

1183. *Chairman.*] Are you aware that, from the schedules that have been laid before this Committee, it appears that some very atrocious criminals have been recently transported?
I have not seen those schedules.

1184. It appears by the returns that the perpetrators of some most atrocious crimes have been selected to be sent to Western Australia: here is one man who had been guilty of rape upon his own daughter, and others of burglary with violence, and unnatural crime?
I stated that the class of prisoners now sent to Western Australia differs from those sent in the first instance, but it arises chiefly from the much smaller number that are sentenced. It is generally understood that every man who is under sentence of transportation should be embarked if there is a place to which he can be transported, otherwise one sentence would be passed with the avowed intention of carrying out another.

1185. It has been represented that in the first year you went upon the plan of selecting those whose conduct in prison gave you hopes of amendment?
Yes; we had a very large number to select from.

1186. Now, as I understand, you have abandoned that principle?
It is the duty of those who are administering the convict prisons to send away every man who is sentenced to transportation, if his health will permit it.

1187. Then, are the Committee to understand, that the same option or power of selection which you formerly possessed is no longer in your hands?
Since the passing of this Act, and the commutation of all sentences of seven and ten years, the number disposable for Western Australia is very limited.

1188. You conceive this last Act to have deprived you of all choice, and that you have now no choice but to send away to Western Australia all such convicts whose health does not incapacitate them for the voyage?
That is the understanding I have at the present moment: the number that are sentenced to transportation being now reduced to about 300 in a year, when an embarkation takes place the whole of them might be sent.

1189. Earl *De Lawarr.*] I understand you to say, that you have no discretion as to the selection of convicts, but that they must all be sent?
No discretion whatever; I receive an order to embark 200 or 300 men, and if those 200 or 300 are eligible, it is my duty to embark them all.

1190. Is not that a manifest violation of the understanding which was first come to with the colony of Western Australia?
I have always felt that; but until the present moment, when discussion has arisen upon it, I have received no instructions to keep back men who were guilty of any particular classes of crime.

1191. You are of course not surprised to find that there have been many very serious complaints urged by the colonists on account of the violation of that understanding?
I think it is very likely; it serves to show one of the objections to transportation, and the endeavour to carry out a system where the interests of the mother country are so manifestly different from those of the colony. The mother country wishes to get rid of its worst criminals, and to make punishment formidable; the colony wishes to receive the best, and to make them comfortable and happy. I look upon it that transportation, regarded in that point of view, cannot be safely relied upon as a deterring punishment.

*Colonel J. Jebb, R.E., C.B.*

4th July 1856.

1192. *Chairman.*] Is it your opinion that the change of system which has taken place in selecting convicts for Western Australia has resulted from instructions which you have received from the Secretary of State, or from your own construction of the intention of the Act of Parliament?

I have had no instructions: it has resulted from this, that we have not the same number to select from, and that, practically speaking, every man who has received sentence of transportation, and is in a fit state of health, should, as a general rule, be sent out (those were the original instructions of Sir James Graham); in fact, be transported under his original sentence.

1193. But how are we to reconcile your answer with the complaint which we understand Lord Campbell and other Judges to have made, that when a person is sentenced to transportation there is the greatest possible uncertainty at present whether or not that punishment will be inflicted?

Previously to the discontinuance of transportation to Van Diemen's Land, every man who could bear the voyage, and who was able to support himself by his labour on his arrival there, was sent abroad. I am not aware that there was any uncertainty; the regulations were very precise.

1194. But my question referred to the present time. If those complaints have been made by Lord Campbell and other Judges within the last few weeks, how are those to be reconciled with your statement as to the certainty which exists that every convict sentenced to transportation, if his health allows, actually undergoes the punishment?

I understand the complaints to refer to the class of convicts sent; they differ from those originally selected in consequence of the numbers who are deemed to be eligible being greatly reduced. It does not always happen that prisoners under the longest sentences are the worst men; but among the class who now require to be transported, there are some men who have not only committed great crimes, but who are men of violent character.

1195. Viscount *Dungannon.*] You say that every man sentenced to transportation is now sent out whose bodily health is in such a condition as to enable him to go?

To the full extent of the opening afforded by Western Australia; they all are sent, so far as I am aware.

1196. *Chairman.*] But, then, how can you exclude the principle of selection, if there are more sentenced than the colony can receive?

Out of the 300 now sentenced to transportation, probably not more than 250 could be selected as being able-bodied, and fit to be sent out in the year, and Western Australia could well receive that number. Previous to 1853, there was an accumulation under long sentences, and those were men sent in 1854 and partly in 1855, so far as I recollect.

1197. Viscount *Dungannon.*] Have you ever known cases where parties sentenced to 14 and 15 years' transportation have been released, as ticket-of-leave men, within two or three years of that period?

All those who were released at such short periods as that have been released on medical grounds, otherwise four years is the minimum period of confinement for 10 years' transportation. The general rule is that all sentences of penal servitude should be carried out to the full extent. The only exception would be the case of a man certified to be so ill that further imprisonment would endanger his life; or it may have been done on representation to the Secretary of State, with which I have nothing to do. No such release has followed any representation of the prison authorities, because they are not competent to bring forward a case until after a minimum period.

1198. Marquess of *Salisbury*] Will you have the goodness to state the regulations under which men sentenced to penal servitude obtain tickets-of-leave?

No man under sentence of penal servitude can be released, unless in the exceptional way which I have just now explained, either on medical grounds, or on a representation to the Secretary of State. The following is the "Notice to Convicts under Sentence of Transportation and Penal Servitude," which is issued by the Secretary of State, for carrying out the law of 1853: "Transportation for certain offences having been abolished by Act of Parliament, and certain periods of imprisonment of much shorter duration, under the term 'Penal Servitude,' having been substituted in place of the sentences of seven and ten years' transportation, which had been usually awarded, no remission, as a general rule, of any

any part of the term of penal servitude will be granted, the period of detention in place of a longer sentence of transportation having been settled by law. The Secretary of State will, however, be prepared to consider the case of any convict whose conduct may be the subject of special recommendation. The Secretary of State is also desirous, as a general rule, of holding out encouragement to good conduct, by establishing successive stages of discipline, to each of which some special privileges will be attached."

1199. That being the notice that was issued to parties sentenced to penal servitude, what is the process of getting release from penal servitude, as far as the authorities in the prisons are concerned?

The authorities of the prisons have no authority at all to bring forward a man under sentence of penal servitude for release until the expiration of his sentence, with the exception of some special case requiring recommendation; and as far as I can remember, I do not think a single special recommendation has been made for the release of a convict on ticket-of-leave except those on medical grounds, or when the Queen's pardon, or an order, has been received from the Secretary of State.

1200. Does the Secretary of State, in sending such an order down to the prison, state any of the circumstances which have induced him to order that release?

No.

1201. Does the Secretary of State make any inquiry from the authorities of the prison upon the subject?

He frequently does as regards the conduct of the man. If a special application is made to the Secretary of State, he generally refers, to know what the character or state of health of such a man is; and on receiving a report upon that subject, he exercises his own discretion as to extending the clemency of the Crown in granting a pardon or license.

1202. Then the authorities of the prison have no control whatever, and no opportunity of objecting to the release of the prisoner?

None whatever; I think I can safely state to your Lordships that not more than four or five convicts under sentence of penal servitude have been released in the ordinary way, although in the period since the passing of the Act of 1853, upwards of 5,000 who were under sentence of transportation have been licensed.

1203. *Chairman.*] Does your experience on this subject suggest any alteration or amendment of the Act of the 16th of Victoria, which you think desirable?

The discretionary power of the Judges is very large under that Act; I think it might be so administered as to provide for almost every case that would be required.

1204. Earl of *Chichester.*] Without altering the law?

Without altering the law.

1205. *Chairman.*] In what respects do you consider the Judges to have large discretionary power under that Act?

The terms of penal servitude to be awarded in place of transportation are laid down; first of all four years as the minimum; then from four to six; then from six to eight; and then from six to ten, or for life. As far as commutation is concerned, it ranges over the whole of the different periods for which sentences of transportation used to be awarded.

1206. Do you think it desirable that a larger number should be sentenced to transportation for life, and that thereby a wider range for selection should be given to you?

No, because that would create greater uncertainty in the punishment, which is the very thing that it is the object to avoid.

1207. Lord *Colchester.*] You stated that the number of sentences of transportation does not much exceed 300 annually?

About 300; for the last two years it has been 315 and 325 respectively.

1208. To return to the case of Western Australia: that colony is stated by

*Colonel J. Jebb, R. E., C. B.*

4th July 1856.

witnesses to be ready to receive from 600 to 800 a year; if so, it would absorb the whole number sentenced to transportation?

That question requires some consideration; for it is connected with the very important one of whether the colony of Western Australia can absorb the labour of those men healthily and properly on the expiration of their penal servitude, or whether those men would become paupers on the hands of the Government, and required to be employed for the benefit of the colony at the expense of the Government.

1209. Assuming that the colony of Western Australia can take a greater number than 300, you would then be obliged to send the whole of them to Western Australia?

Yes.

1210. Consequently you have no means now of making a selection?

None; because Western Australia wishes and perhaps can take the whole of those now sentenced.

1211. It being the fact, as you are aware, that official communications have lately been received from Western Australia, complaining of the character and conduct of the convicts that have been recently sent, can you suggest any mode in which that difficulty might be met?

Not without getting into a greater evil, namely, that of creating an uncertainty of punishment. I consider that transportation cannot of itself be regarded as a deterring punishment; any number of men would readily choose it rather than remain in confinement for a limited period in this country. To the full extent to which Western Australia can healthily absorb good convicts, I should be disposed to recommend that the best should be selected after a certain period of confinement here, and be sent to Western Australia in the same way as they were at first; and that long periods of imprisonment and penal servitude should be substituted for sentences of transportation.

1212. You would prefer the severer punishment of a long sentence, with penal servitude at home, to sending them abroad?

There cannot be a question about its being the more deterring punishment.

1213. You would prefer the sentence being carried out at home to having any fresh penal colony abroad?

At home, and at Bermuda and Gibraltar; there would be full opportunity of carrying out all those sentences: by that means a certainty of punishment might be obtained, and, being more in sight, it would be more in recollection; and you would deal, as other countries do, with the worst of your criminals at home, instead of inflicting them upon the colonies.

1214. Earl of *Chichester.*] The course which you are now suggesting you think would not be open to the objection that you have urged against the other alternative suggested by the Committee, of increasing the number of transports to be sent out, which, in your opinion, would have the effect of increasing the inequality of the punishment?

It would increase the inequality of the punishment, and if it became necessary to make a selection, it would add still more to the uncertainty of it.

1215. But the course that you are now recommending supposes a selection, but a selection on the ground of merit?

Yes.

1216. That, you think, would not be open to the same objection, of causing inequality of punishment, as the other course?

No; it would afford a means of disposal only.

1217. Lord *Colchester.*] I understand you to say, that you think that long-continued penal servitude is the best mode of inflicting punishment for the severer crimes; would you see any objection to that being carried out in the more distant colonies, such as Western Australia, where there are large public works wanted, or in any new colony about to be formed, by sending out a proportion of those more hardened criminals to be employed there upon public works, who, after the expiration of their sentence, would be at liberty to go where they pleased?

No

*Colonel J. Jebb, R. E., C. B.*

4th July 1856.

No difficulty is likely to arise in the administration of the discipline, or the working of the system, till the men are entitled to their release. The colony objects to receive the worst offenders; and the question arises, whether they are to be retained in the colony or sent home? It has always appeared to me, that the interests of the Imperial Government and the interests of the colony are so opposite, that any attempt to reconcile them will only lead to the changes and uncertainties which have been going on for so many years.

1218. Supposing a man to have been at Bermuda or Gibraltar, and to have finished his term there, does the Government find him a passage home?
Yes.

1219. That might be the same if he was sent to Australia?
It would be the same if he were sent to Australia, but more expensive.

1220. *Chairman.*] When you speak of the interests of the Imperial Government and of the colonies being opposed, are not you overlooking the fact, that the colonists of Western Australia have been anxious for, and have petitioned to receive convicts?
But it was the best description of convicts only that they desired to have; and I believe it was more for the sake of obtaining the large Government expenditure that would take place, than for any other object.

1221. How can it be said that the interests of the Imperial Government and of the colony were in opposition, when the colony was anxious to receive convicts (of whatever class), and it was the interest of the Imperial Government to send convicts?
Their hope and understanding was, that they should receive the best class of convicts.

1222. Was it not for the advantage of the Imperial Government to send convicts even of the best class?
That may be questioned; I think, in the present state of the labour market, I mean its understocked state for some time past, a great proportion of the convicts that have been sent to Western Australia have been a loss to this country. Within the last five years 3,500 men have been sent to Western Australia, of whom it may be assumed that 2,500 at least would have done well in this country. If we are short of labour, the men were so far a loss, and it has been accomplished at an expense of about 400,000 *l.*

1223. I understand you to say that the complaints which have come from Western Australia, with respect to the change which has taken place with respect to the selection of convicts, have not been brought officially before you?
No.

1224. I understand you also to state your opinion, that a large proportion of the convicts who have gone to Western Australia might have found honest employment in this country?
I have no doubt they would; they were of a better class, as a whole, than those that have been released since, and of those we have only heard of about 8 per cent. in two years and a half who have been convicted of crime.

1225. In giving that answer, do you not overlook the fact of the difficulty which convicts experience in finding honest employment?
There have been very great difficulties created, chiefly by the cry that has been raised against them on exceptional cases, without having regard to the proportion that those cases formed of the whole number released. I know from correspondence, and can refer to hundreds of records, showing the vast proportion of men who are doing well for themselves of those that have been released.

1226. It has been stated in the debates, both in the House of Lords and in the House of Commons, that the police in some parts of the country (Scotland was especially named) have considered it incumbent upon them, where they knew of a ticket-of-leave man having found honest employment, to go to the employer and tell him that he, without his knowledge, had engaged a convict

*Colonel J. Jebb, R. E., C. B.*
4th July 1856.

in his service, and that they have thereby, in many cases, driven a convict from an employment which he was honestly exercising; have any facts of that kind come to your knowledge?

Instances have occurred, but they are not sufficiently numerous, I think, to affect the prospect or the employment which has been obtained by those men; they have received great assistance from the clergy, and from many gentlemen in the parishes and places to which they have returned.

1227. By whose instruction do the police act in those cases which have been alluded to?

I assume it to have been under the local authorities, because it has been an object to discourage any interference with the men.

1228. Have any special directions been issued in the cases referred to?

I am not aware of any, except in the case of the metropolitan police. Distinct instructions have been given to the metropolitan police not to interfere with them.

1229. If the metropolitan police have received those instructions, why have not similar instructions been sent to the inspectors of police throughout the country; and if a contrary practice has prevailed in some districts, does not that constitute an anomalous state of the authority of the law?

It depends upon the authority under which the police are placed. The metropolitan police act under the distinct authority of the Secretary of State; but that is not the case with the police of the different counties and boroughs.

1230. If that practice under the direction of the Secretary of State prevails in London, why should a different practice prevail, for example, in Edinburgh and Glasgow?

I should say that it would be an advantage to establish an uniform practice; but in the present state of the law, I am not aware that a uniform practice could be adopted.

1231. Viscount *Dungannon.*] Could not instructions be sent to the superintendents of the different bodies of county and borough police, to give the same directions to their men as are given to the metropolitan police?

I am not aware whether it would be competent to the Secretary of State to do that.

1232. *Chairman.*] Where any such case has been brought before you, have you made any representation or taken any step in consequence?

Only by correspondence with the local authorities. There was a case happened at Preston, where a woman was seized as soon as she arrived there. She was accused of robbery, and was about to be tried, and no doubt she would have been condemned, for witnesses swore distinctly to her; but it very fortunately happened that at the time that robbery was committed, the woman was within the four walls of Brixton prison. That fact was proved, and Mr. Clay, the chaplain of the gaol, brought the subject under my notice, and gave some assistance.

1233. Can you state to the Committee any instances in which the police have thought it necessary to drive reformed convicts out of employment, on account of their former misconduct?

Not particularly. The instances have been very few that have come to my knowledge.

1234. Viscount *Dungannon.*] You stated that the cases in which convicts who have been sentenced to 10 years and 15 years' transportation, and have returned with tickets-of-leave within three years from the period of their sentence, have always been cases where their health has been materially affected; and where they have had a certificate from the medical man of the gaol in which they were confined?

Yes; there are certain minimum periods at which a man under those circumstances becomes eligible to be recommended to the Secretary of State. The only exceptional cases are those where health is concerned, or where very great assistance has been given by convicts, sometimes in saving the life of a man, sometimes in assisting the officers to suppress misconduct. In those cases, if I have

have recommended the remission of from three to six months, the Secretary of State has in many instances (not in many instances as regards penal servitude men, but I am speaking of men under sentences of seven years and ten years' transportation) granted those remissions as a reward for good conduct.

1235. But you have known cases where men under 15 years' transportation have returned to the scenes of their old course of crime in a period as short as three years?

I think if inquiry were made respecting the particular instances, it would be found that it was on medical grounds; it must have been so, because a general rule is laid down respecting minimum periods, which is never infringed at all.

1236. *Chairman.*] I gather from one of your previous answers that you do not think favourably of the system of transportation, even to the extent to which it now continues, to Western Australia?

There is an anomaly about it. The people of Western Australia do not want the worst convicts; but it is the worst convicts that are sentenced to transportation; and it would appear to be a duty in the Government to send out all those who have been sentenced to transportation, unless there were some special cause for their detention.

1237. Would it not follow from your answer, that the system of dealing with convicts, which prevailed previously to the passing of the Act of the 16th & 17th of Queen Victoria, was much better than the system that now exists?

That system was dependent upon Van Diemen's Land. So long as there was that outlet for every man sentenced to transportation, unquestionably it was the best; but it was not regarded by the men so much in the light of a punishment as might be supposed.

1238. Is it not the fact, however, that we have the testimony before previous Committees of this House of many of the Judges, as to the deterring effect of transportation as a punishment?

I am aware that such opinions have been given; but it has always been my own impression that those opinions were formed upon merely what was seen in Court. The Judge only sees the prisoner during the time that he is on trial, and at such times the friends of the prisoner are about the Court, manifesting a great deal of distress. But I have had long experience in the feelings of the men themselves, and know that they do not regard it generally in that light. Any number of volunteers might be got at this moment from among the penal servitude men who would gladly go to any colony, if 12 or 18 months of imprisonment were remitted.

1239. Lord *Colchester.*] That is upon the supposition that they have tickets-of-leave?

Yes; but if sent away the labour of the men would be lost, and little or nothing obtained in return.

1240. *Chairman.*] But the labour is not lost if they are employed on the public works in the colony?

It is not exactly lost, because it is an advantage or free gift to the colony.

1241. Earl *De Lawarr.*] It is not labour without any return?

No; but it is in a manner lost to the Imperial Government.

1242. Marquess of *Salisbury.*] You have stated that a number of the tickets-of-leave which have been granted were granted to prisoners sentenced to be transported, and that the system of granting tickets-of-leave was founded upon the practice which has always existed, of considering labour in the hulks to entitle a prisoner to his discharge after he had undergone half the period of his transportation?

Yes, that I believe was one of the data on which the calculation rested.

1243. Are you aware of a return which has been made this year to the House of Lords, in pursuance of an Address of the 1st of June 1854, in which the periods at which the parties were convicted who now have tickets-of-leave are stated?

Yes.

 1244. Are

*Colonel J. Jebb, R.E., C.B.*

4th July 1856.

1244. Are those periods correctly stated in this return?
It is not a return from my department. I think you will find, as a general rule, that every man who is noted here under sentence of seven years will have served three years, or probably a little more; and those under sentence of 10 years will have served four years; I am sure that three and four years respectively will be below the average, because men lose time by misconduct during the period of their probation. I observe that the first man was convicted on the 17th of March 1851, and he was released on the 25th of July 1854; that is three years and four months. The next is a 10 years' man, who was convicted in 1850, and released in 1854; that is four years.

1245. On what principle were those men released at those periods?
I have explained that, under the circumstances in which those men were placed at the time of the passing of the Act, some consideration was shown to them in consequence of the notice they had had that their period of imprisonment would be shortened in connexion with their embarkation; therefore, instead of being fixed at three years and a half for a seven years' man, and five years for a 10 years' man, it was determined to release the seven years' man in three years, and the 10 years' man in four.

1246. And there was a regulation passed to that effect?
There was a regulation made by the Secretary of State as applicable to that large class of men who were under sentence at the passing of the Act, but were excluded from transportation to Van Diemen's Land.

1247. When that Act was passed, which virtually abolished transportation, what additional imprisonment did those under sentence of transportation, who were either in prisons or in the hulks, suffer?
To this extent: a seven years' man, under the regulations at that time, would have been embarked, if his conduct had been good, at the expiration of two years; and a ten years' man in two and three quarters; a year was therefore added to the seven years' man, and a year and nine months to the ten years' man—the additional confinement being substituted for removal to a colony.

1248. You have stated that there have been very few instances in which ticket-of-leave men sentenced to penal servitude have been released?
I do not believe that there have been more than five altogether since the passing of the Act. If your Lordships will allow me, I will give an exact return of the number who have been released.

1249. It appears from your return, that the number of convicts who have, since the passing of the 16th & 17th Victoria, received orders of license, amounts to 5,152?
That was the Return to the House of Commons up to the 11th of March.

1250. Of those, 447 have been convicted of subsequent offences?
Four hundred and four have been convicted; that is about 8 per cent.

1251. Were those convicts principally persons who had been convicted and sentenced to transportation previously to the passing of the 16th & 17th of Victoria?
I believe the whole of them.

1252. Under what circumstances are orders of license continued to prisoners who have been convicted of offences subsequently to the licenses?
Some offences involve the forfeiture of the license, and some do not. If, for instance, a man were taken up and convicted of an offence, and sentenced to three months' imprisonment for that offence, the Secretary of State would revoke his license, and at the expiration of his sentence bring him back again to prison; if he were sentenced to 15 years' transportation, or to five or six years' penal servitude, it would not be necessary to revoke his license, he would come back to the prison under his new sentence; that creates the distinction referred to in the question.

1253. Then,

1253. Then, in fact, every prisoner who is convicted of an offence has his license immediately taken away from him?

As a general rule; there may be one or two exceptions, but as a general rule, every man would forfeit his license.

1254. Viscount *Dungannon.*] Be the offence whatever it may?

Be the offence whatever it may, because it is the condition of the license that the man shall earn an honest livelihood, and conduct himself properly.

1255. Marquess of *Salisbury.*] How does the Secretary of State obtain a knowledge of his conviction?

The Secretary of State, on the 15th of February 1855, caused the following letter to be written to the visiting Justices: "It being extremely desirable that the Home Department should be in possession of accurate information, so far as the same can be obtained, of the re-committal to prison of individuals released from confinement by pardon or on orders of license, and of the circumstances leading to such re-committal, I am directed by Secretary Sir George Grey to request that you will take measures for ensuring the transmission to this office of a report of every case of this kind which may be discovered in your prison, stating the nature of the new charge against the prisoners, and the particulars, as fully as they can be given, of the prisoners' conviction and release." It is in compliance with those instructions that reports have been received from that date up to the present time.

1256. In what way is the withdrawal of the license ensured?

The Secretary of State, of course, has the power to consider the circumstances, and he issues an order to the magistrate to give his warrant for the apprehension of the man, and committal to the convict prison, from which he was released. That is the course which is pursued, I believe.

1257. Is that always done in those cases immediately upon the receipt of the warrant?

I am not aware; it is entirely in the Home Department, and is a matter with which I do not interfere. The man is brought by a warrant of committal to the governor of the prison from whence he has been released, a course which is in compliance with the terms of the Act.

1258. Does the warrant of committal to the penal prison state the offence with which the prisoner is charged?

Yes, in all cases it shows the nature of the offence and the award of the Court.

1259. Earl of *Chichester.*] Of course the warrant of commitment states the offence, or at least it ought to do so?

Yes.

1260. Marquess of *Salisbury.*] It appears from the return, that the number of convicts whose licenses have been refused or withheld for misconduct is 554; how is that regulated?

That is a very minor question. Under the regulation, it is only in case of exemplary conduct that a man can be brought forward at the minimum period. If he forfeits a month or two for misconduct, that delays the license for that length of time beyond the minimum period. The Secretary of State, wishing to receive all the information possible, requires a return to be sent of the licenses which would have been due had it not been for misconduct, and the number of those is only 554 of some thousands.

1261. What do you mean by the minimum period of punishment?

The Secretary of State fixes the minimum period when a man is eligible to be brought before him for release; and that minimum period is three years in the case of a seven years' man, and four years in the case of a ten years' man.

1262. Then this number of 554 only applies to transports, not to penal servitude men?

Not to penal servitude men, only to transports. This number of 554 refers to those men who may have entailed upon themselves an additional period of

*Colonel J. Jebb, R.E., C.B.*

4th July 1856.

confinement by some act or acts of misconduct. Under the terms of the notice which I have read, the penal servitude men are liable, irrespective of good conduct, to serve out their whole period. It is a subject of great regret to me that it is so, because we have lost the principal encouragement by which reformatory discipline can be carried on.

1263. Earl of *Chichester.*] You have stated that you consider the diminution of the sentence, in certain cases, on the ground of good conduct, a very useful element of discipline; would you apply that to every kind of punishment, or merely to the punishment of penal servitude, which extends over a considerable number of years?

As an element of discipline, I think that encouragement to good conduct is of the greatest possible importance. That alone enabled the authorities to rule the hulks in the worst time of the system as it formerly existed. At that time, as I have explained to your Lordships, a seven years' sentence was worked out in 3½ years; but that depended upon good conduct. A man struggled hard to preserve his privilege of getting away in 3½ years. Since Portland has been opened, the discipline has been placed on a more systematic footing, and it has been very accurately worked: a record is kept every month of the character and industry of the convicts, and according to that, certain remissions of penal discipline are granted, and what they think advantages in further stages of discipline. The great point with all the men is, if possible, to obtain their release at an earlier period; and, therefore, I would go to the extent of saying that such a principle might be introduced with advantage into the discipline of all long periods of confinement. Limiting myself, at present, to those convicts that come immediately into the hands of the Government, I should be glad to see a sentence of four years limited to three or three and a half on good conduct, and to see a sentence of five years limited to four, in fact some proportionate remission for good conduct. That would only apply to long periods of confinement. But still the principle of encouragement may be extended to very limited periods. I have had experience in carrying on the discipline of military prisons, where the object has been to enforce as severe a punishment as it was fair and right to establish, and as to have short sentences. I happened to be a member of Lord Cathcart's committee when this question was settled. It was the opinion of the committee, that a gradation of punishment might be introduced into sentences of even for three or four months. This principle has been worked out in the military prisons, which has been now going on the last six or seven years with the greatest possible advantage. Three classes are established, not with reference to the crimes of the men or their character, but for forming successive periods of probation. In what is called the third class, they perform hard labour with shot of 32lbs. weight, and have four hours of drill in heavy marching order, and two hours of oakum picking in addition; they also sleep in separate cells: but they are told that if they conduct themselves well for a certain period, they shall get into the second class. The discipline of the second class is lighter; instead of carrying 32lb. shot they carry 24lb. shot; and instead of picking oakum they receive instruction. Then they may get into the first class by their good conduct. In the first class they are relieved altogether from the shot drill, and have a meat dinner on Sunday, to which they look forward. The result is, that the men endeavour, by good conduct, to earn those little separate privileges; and as they are told, on going out, that if they are re-committed to prison, those privileges will be withheld in a great measure, it has a deterring effect. There is one other point connected with the punishment which I will mention, which is, that for the first seven days all the men sleep as if they were on guard; that is, without a mattrass, or palliasse. In the third class, they get a palliasse one night out of three; in the second class, every other night; and in the first class they have a bed every night. This distinction is not without its effect. It is necessary, in framing penal discipline, to go into all the little comforts that are prized by the men, and to make some distinction between the different classes.

1264. Viscount *Dungannon.*] That applies to periods of much shorter punishment?

To periods of much shorter duration; but I think the discipline in county prisons might be arranged upon some such principle as that with great advantage.

vantage. It also appears to be desirable that the secondary punishments in the country should be looked at as a whole, not in disjointed fractions. There are now county prisons and borough prisons, and Government prisons. The mass of the criminals who circulate through all the different prisons should be looked to, because it is among them that the more serious crimes are committed.

1265. Marquess of *Salisbury*.] With respect to shortening sentences, are you of opinion that a sentence of four years, rigidly carried out, would not produce more effect in deterring persons from crime, than a sentence which could be shortened by subsequent good conduct?

The principle I wish to explain to the Committee is this, that if a minimum period were fixed, which should in all cases be rigidly carried out, a maximum sentence might be passed. When I said three years for four, it was with reference to the present law; if it were determined that four years was the proper period to be carried out, then I would pass a sentence of five years, and so on.''

1266. That is to say, you would pass a sentence of five years, which in case of bad conduct could be carried out fully, and in case of good conduct could be shortened to four years?

Yes; it would be necessary to pass the longer sentence, and it would have a more severe aspect; but the minimum should be sufficient to exercise a deterring influence out of doors.

1267. In case of tickets-of-leave, the minimum has been fixed; do you think it desirable that that minimum should be shortened?

The Secretary of State has the power to shorten it under the Act; and to grant licenses to any; he is prepared, as I read in the notice, to consider any special cases that may be brought before him.

1268. From your experience of tickets-of-leave, do you wish that principle to be extended?

I am not quite clear about the extension of the principle of tickets-of-leave; the principle of remission I am quite clear about; but the effect of releasing men on license, called ticket-of-leave, has been to create a class: I believe that if those men had been released perfectly free, we should not have heard so much of them as we have heard; but now they are regarded as a class: a man that has been in Cold Bath Prison half a dozen times is never heard of.

1269. Then from your experience you do not think the ticket-of-leave system an expedient system to resort to?

It is, I think, an open question. I am inclined to think that it may operate favourably in restraining men from committing crime; but, upon the whole, I incline to the opinion that it might be better to give a short period of remission only, and to release the men perfectly free.

1270. Marquess of *Salisbury*.] In your opinion, would it be expedient, if tickets-of-leave are to continue to be granted, that a return should be made to the police of the ticket-of-leave men who leave the prisons?

I am entirely against that system; if tickets-of-leave are to be granted, it were desirable not to maintain a superintendence; if they are to report themselves to the police, it would be fatal to their obtaining employment. We have the experience of France upon that subject; the same plan has I believe failed in France, where they have such excellent means of carrying it out.

1271. You are aware that a clause was introduced into the Act of Parliament, by which, if ticket-of-leave men could not obtain employment, they were to be employed by the Government?

That point was discussed, and there would have been no difficulties, except those which are inherent in bringing together a number of men, where there does not exist the power of enforcing discipline. But as far as my experience goes of the release of between 5,000 and 6,000 men, the number of applications made to me for assistance in obtaining employment has been so very small, that I do not think it would be advisable for the Government to take any steps whatever for the employment of the men.

*Colonel J. Jebb, R.E., C.B.*

4th July 1856.

1272. In your judgment the ticket-of-leave has not operated to prevent the parties from gaining employment?

They have had great difficulties to contend with; but as a large majority of them have obtained employment, and are doing well in it, it has strengthened me in the opinion that it would be a disadvantage to bring them together, with a view of affording them employment. It would no doubt be a kind of workhouse test to them—you might say, Here is work for you at a small amount of wages, if you like to come,—but I think that very few would come. They have a much better chance, as a general rule, of getting employment, than could be afforded by the Government for a permanency.

1273. Viscount *Dungannon.*] Do you mean to say that in going back to the places which have been the scenes of their former crimes they would be likely, being well known there as convicted persons, and coming with tickets-of-leave to get employment, would it not be much better for the Government, if possible, to give them some employment that would secure to them a maintenance, than to send them back to those places where they have been known as convicted offenders?

You might stave off the evil day in that way, but there still would come a time when they would be entirely free, and that is the difficulty.

1274. Of course when once a man is free, it is supposed that the punishment has done away with the offence; and we know that when that is the case, it is actionable at law to bring against a man his former conviction, if he is leading an honest life. But the case we are now considering is that of a man who is still under a certain stigma—he is a ticket-of-leave man, liable to be sent at any time back again, upon any criminal act he may commit, to his former place of confinement. Now do you think it desirable that that man should have the power at once of returning to the scene of his former crimes, more especially if the police are to have the power of going to any person who may ignorantly employ him, and saying, "Are you aware that you have a formerly convicted offender in your service?"

The course pursued at different prisons is this: about a month or two months before the period when the man becomes eligible to be brought forward for release, inquiry is made of the man if he knows any one who will employ him. He generally knows somebody who he hopes will employ him, and a letter is addressed to the person, who, in the majority of instances, returns a favourable answer. No notice is taken of that answer, unless it is certified that the person is capable of fulfilling the promise which he holds out. Those answers accompany the return of the lists of the men who are entitled to their release; and there is annexed a column which shows the prospects which they have on liberation. Almost the whole of the men go back to the parishes from which they came, and in a great proportion of instances they obtain employment.

1275. How then do you account for the great complaint of the system which is made by provincial magistrates, by petty sessions, and by quarter sessions throughout the country, and by the judges, if the means are found, before the man is released, of giving him employment?

I can only state that those returns are made.

1276. Marquess of *Salisbury.*] I understand you to say that you have the opinion that it would be better to discharge the man altogether, and to let him go as a free man, than to let him go with a ticket-of-leave?

If the period is short, I think it would.

1277. If the ticket-of-leave system is to be continued, do you see any objection to extend the form of the license to any place whatever?

No. I have just stated that I think the more free the action of the man who is released, the better chance he has of employment. Restrictions have been tried, but they have been found not to work well, and the practice has been discontinued.

1278. In your evidence before the House of Commons, you stated that in your opinion it is not safe for a ticket-of-leave man to go to the colonies?

The Act of Parliament will not protect him in going to the colonies.

1279. Would

1279. Would it not be better to alter the form of the license, and to allow the man to go where he pleases?

At present, they are debarred from going to the colonies; but I have no doubt that some do go, and take their chance. The Act of Parliament does not, however, protect them; so that if they were recognized by anybody who knew them at the time when they were sentenced, it might be said, "You are at liberty before the expiration of your sentence," and steps might be taken for arresting him for the offence.

1280. Viscount *Dungannon.*] Looking at the advantages and disadvantages on both sides of the question, do you not think that if it is decided, after a certain period of punishment, to send the man out on ticket-of-leave, it is better to send him out at once as a free man; would not he have a better chance, and be less likely to be driven back by desperation into crime?

Yes, I think so; I have stated that to be my opinion. The license has had the effect of creating a distinct class, and that operates against them. I think it would be better to release the man, with a free pardon.

1281. Would it not be better, under those circumstances, not to release him at so early a period after the sentence as is sometimes done?

The sentence is considered as a fair commutation under all the circumstances of the case. At present, definite sentences are passed of four or five years' penal servitude; that can be understood by the Judges, the criminals and the public. One alteration which I have ventured to suggest is, that in order to give encouragement to good conduct in the prison, a minimum sentence should be fixed, and a maximum sentence passed, allowing, perhaps, a difference of one-fourth of the term between the two.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Tuesday, Two o'clock.

# APPENDIX.

## Appendix A.

RETURN to an Inquiry by the Committee of the House of Lords on Transportation.

Total Amount voted by Parliament for the Support of the Convict Establishments in the under-mentioned Colonies, in the Year ending the 31st of March 1856.

| BERMUDA. | GIBRALTAR. | NEW SOUTH WALES. | VAN DIEMEN'S LAND. | WESTERN AUSTRALIA. | TOTAL. |
|---|---|---|---|---|---|
| £. | £. | £. | £. | £. | £. |
| 48,510 | 19,015 | 5,800 | 142,236 | 82,060 | 297,621 |

Number of Convicts chargeable to Government in each of the above-mentioned Colonies:

| | |
|---|---|
| Bermuda | 1,300 |
| Gibraltar | 800 |
| New South Wales | 500 |
| Van Diemen's Land | 4,000 |
| Western Australia | 2,000 |
| Total | 8,600 |

*N. B.*—These last figures are meant to show the number of prisoners actually chargeable to the Government in each colony. The Parliamentary Estimates, until the present year, used to exhibit only the whole number of convicts, whether chargeable to the Government, or independent of it; but the other method has now been adopted, as far more correct and useful for practical purposes.

Colonial Office, 4 July 1856.

## Appendix B.

RETURN to an Inquiry by the Committee of the House of Lords on Transportation.

When the Government contemplated, in the year 1846, the establishment of a new penal colony, to be called North Australia, it was declared, by Letters Patent, that it should consist of all that part of New South Wales which lies to the north of the 26th parallel of latitude. Now the western boundary of New South Wales is the 129th meridian of east longitude. Hence North Australia would have comprised the whole of New Holland between the 129th meridian of longitude and the 26th parallel of latitude. But whilst these were the boundaries technically assigned to it, the authors of the measure in fact instructed the Governor to turn his attention to the first available site which might be found on the east coast, to the northward of the southern boundary, more especially to Hervey Bay and Wide Bay; and the Commander of a preliminary expedition did accordingly select Port Curtis for the purpose. But the plan was then abandoned; and North Australia, without ever having come into real existence, has once more merged into the general territory of New South Wales.

Colonial Office, 30 June 1856.

# I N D E X.

[*N.B.*—In this Index, the *Figures* following the Names of the Witnesses refer to the Question in the Evidence; those following *App. p.* to the Paging of the Appendix; and the *Numerals* following *Rep. p.* to the Paging of the Report.]


A.

*ALBERT RIVER (Northern Australia).* Settlers from Moreton Bay are fast approaching towards Albert River, at the head of the Gulf of Carpentaria, *Hodgson* 94–98. 112, 123; *Stokes* 269. 302. 305——A penal settlement might with advantage be formed there, *Hodgson* 112–115——The district near the river is peculiarly eligible for a new colony, *Stokes* 236 *et seq.*

Evidence as to the favourable character of the temperature at Albert River, *Stokes* 241–244. 269. 276–278. 301, 302. 306, 307——Good character of the soil, and of the country, *ib.* 246. 278–280——Useful wood in the district, *ib.* 252–256——The settlement should be about thirty miles up the river, *ib.* 298–302——Expediency of Government encouraging settlers; land should be allotted at a very low price, *ib.* 309, 310.

Attention of the Government called to the question of a penal settlement in this district, as it presents several advantages for that purpose, *Rep. p.* iv.

*Assignment System.* Approval of the system of assignment of convicts among colonists, *Marsh* 11. 34–36. 40–47. 61——By sending convicts on the assignment system to Cape York, &c., they might in time set up as free labourers or small farmers, *ib.* 61——Important effect of the dispersion of ticket-of-leave men as a means of reforming them, *Hodgson* 86, 87——Advantage of the assignment system, as facilitating the subsequent free employment of the men, *ib.* 113–115——Successful system of assignment in New South Wales, *Hovell* 699–702.

Inequality and favouritism of the assignment system, though under it the colonists have the advantage of cheap labour, *Henderson* 915–917.

*See* also *District Supervision.*

B.

*Bermuda.* Amount of 48,510 *l.* voted by Parliament for the supply of the convict establishment in the year ending 31 March 1856, *App. p.* 124——Total of 1,300 convicts chargeable to Government, *ib.*

*Bridges.* Construction by convicts of wooden bridges in the colony of Western Australia, *Fitzgerald* 198–203.

*Broad Sound (Northern Australia).* Natural advantages of the district of Broad Sound, near Cape Palmerston, for a new settlement, *Dayman* 1037–1039.

*Broun, Richard M'Bryde.* (Analysis of his Evidence.)—Has been for 25 years in Western Australia; was Government resident and collector of Customs at the port of Fremantle, 586–588——There are now about 2,000 convicts in the colony, 589——The conduct of the convicts was, in the main, unexceptionable, 590–593. 661, 662——The colonists are now generally in favour of the reception of convicts in limited numbers, 594–596. 656, 657.

About 1,000 convicts might advantageously be sent out annually, as many of them would by degrees, having obtained conditional pardons, become employers of labour, 597–601. 609–615. 639–641——Cessation lately of free emigration to the colony, 602, 603. 620, 621——Slight increase of voluntary emigration anticipated on account of the greater attractions of other colonies, 604–608. 637–641——Sundry public works on which convicts might be usefully employed, 609–613.

Report, 1856—*continued.*

*Broun, Richard M'Bryde.* (Analysis of his Evidence)—*continued.*

Frequent instances of ticket-of-leave men marrying with female emigrants, 615. 619——Allotment formerly of land on the investment therein of 1 *s.* 6 *d.* an acre, 623, 624——Uniform price now of 1 *l.* per acre; this price should be reduced, 625-639——Transmission lately of the wives and families of convicts, on condition that the cost be defrayed out of the convicts' wages, 642 646. 650-652——Expediency of some further means of providing females if the convict system be continued, 647-649——Importance of convict labour as a means of cultivation of the land, 653-655.

Dissatisfaction in the colony, on account of the more criminal class of convicts lately sent out, 658-660——Necessary payment by the convicts of the cost of their passage before they receive conditional pardons; doubt as to this arrangement having any effect upon their rate of wages, 663-666——Regulation that a ticket-of-leave man must accept wages at the rate of 1 *l.* a month, besides his food, 666, 667——Reference to the Champion Bay and Port Gregory mining districts as eligible districts for penal settlements, 668-671.

C.

*Caldwell, Lieutenant-Colonel William.* (Analysis of his Evidence.)—Went out to the Red River in June 1848, as commandant of pensioners and governor of the settlement; returned in October 1855; 337-340. 356——There are two routes to the settlement, one by Hudson's Bay and by boat from the York factory, and the other by the Canadian rivers, 341-343. 353——The settlement is exceedingly difficult of access by either route, and is not suitable for the formation of a convict establishment, 344-355.

*Cape York.* Evidence in favour of a convict establishment, on the assignment system, at Cape York, which is a long way from the settled district of Moreton Bay, and is a very eligible situation, *Marsh* 18-47. 55-64——Witness has been at Cape York and considers the climate good and the country very favourable for settlers; there was plenty of water, *ib.* 23-26, 58——Small capitalists and farmers mainly expected to settle if convict labour were employed, *ib.* 29-33——There need be no apprehension that any of the convicts would become pirates, *ib.* 62-64.

Insufficient inducement at Cape York for the establishment of a free settlement, *Hodgson* 116-118. 127, 128——There is not a sufficient body of land for a new settlement, *Stokes* 235, 236. 322——There might be a station for coaling vessels and for pilots, &c., *ib.* 308. 318-320——Small and temporary convict establishment desirable, *ib.* 313-322.

Advantage if a military settlement, independently of convicts, were formed for the assistance of shipwrecked seamen, *Dayman,* 1027-1029. 1043-1045——Cape York, though its climate is very healthy, is hardly eligible as the nucleus of a new colony, *ib.* 1033-1037.

*See* also *Escape of Convicts.*

*Carpentaria, Gulf of.* The Gulf of Carpentaria, on the north coast of Australia, is an eligible situation for a convict establishment, *Marsh* 18; *Hodgson* 112-115; *Stokes* 236, *et seq.*——Safe navigation in the gulf, *Stokes* 258, 259. 331, 332——Obstacle to a harbour on the mainland for large ships, *ib.* 295, 296. 299——Similarity of the Gulf of Carpentaria to Port Philip, as the natural outlet on the coast for interior settlements, *ib.* 336.

In the event of a new settlement for the reception of convicts being formed, the Committee desire to call the attention of Government to the northern portion of Australia; especially to the head of the Gulf of Carpentaria and the adjacent islands, as being sufficiently within the reach of the peopled settlements of New South Wales to hold out expectations to free settlers, and to supply the means of profitable employment to the convicts, *Rep. p.* iv.

*See* also *Leichardt, Dr.*

*Champion Bay and Port Gregory.* Reference to the Champion Bay and Port Gregory mining districts as eligible for penal settlements, *Broun* 668-671.

*Colonists.* See *Moreton Bay.* *Selection* (*Transported Convicts*). *Western Australia,* 2.

*Commutation of Sentence.* Practice some 15 or 20 years ago to commute all sentences of transportation into imprisonments in the hulks for half the period, provided the conduct was satisfactory, *Jebb* 1137. 1155. 1172, 1173. 1242. 1263——Practice also in recent operation to give a ticket of leave after two years imprisonment in the case of a man sentenced to seven years' transportation, and after about three years in the case of a sentence for 10 or 14 years, *ib.* 1137-1162. 1173, 1174. 1244, 1245——As a general rule, the period for transportation was never contemplated to be a period of imprisonment, *ib.* 1150.

Report, 1856—*continued.*

*Commutation of Sentence*—continued.

Question, raised by the Committee, whether the abridgment of the penal sentences, on condition of their being passed at home, is founded on just principles; revision recommended, *Rep. p.* v.

*See* also *Gradation of Punishment. Penal Servitude at Home. Selection (Transported Convicts). Tickets of Leave.*

*Conditional Pardons.* Advantage if the Governor of Western Australia were empowered to grant conditional pardons, without previously communicating with the Secretary of State, *Henderson* 907–910.

*Continuance of Transportation.* Resolution that a continuance of the system of transportation to the colonies would, under certain conditions, still be highly desirable, *Rep. p.* iii.

*See* also *Western Australia.*

*Curtis, Port.* See *Port Curtis.*

D.

*Dayman, Lieutenant Joseph, R.N.* (Analysis of his Evidence.)—Was employed from 1847 to 1850 in surveying the north-east coast of Australia, 1017–1020——Eligible character of Port Curtis for the foundation of a new colony, with a view to the reception of convicts, 1021–1025——Formation by Government, and subsequent abandonment in 1846, of a colony at Port Curtis, 1023. 1032——Probability of objections being now raised in New South Wales, if not in Moreton Bay, to a convict establishment at Port Curtis, 1024. 1026.

Advantage if a military settlement, independently of convicts, were formed at Cape York for the assistance of shipwrecked seamen, 1027–1029. 1043–1045——Cape York, though its climate is very healthy, is hardly eligible as the nucleus of a new colony, 1033–1037——Natural advantages of the district of Broad Sound, near Cape Palmerston, 1037–1039——The whole of the north-east coast has been accurately surveyed; there are many shoals, but the navigation cannot be considered difficult, 1040. 1042——The natives of some of the islands are of a most treacherous disposition, 1045.

*District Supervision.* Instead of the assignment principle, a system of district supervision is being carried out in Western Australia, *Yule* 761——The present system of allowing the ticket-of-leave men to go from one district to another, upon reference to the Comptroller-general, is better than the assignment system, *ib.* 779——Nature of the ticket-of-leave regulations; conditions under which each convict was assigned a particular district, on which to do the best for himself, *Henderson* 862. 938, 939——Considerable power of the convicts' employers over them, *ib.* 912, 913.

E.

*Emigration.* Extent at present of Government emigration to Western Australia, *Fitzgerald* 220, 221——Expediency of continued emigration to Western Australia at the expense of Government, *Moore* 534–541——Cessation lately of free emigration to the colony, *Broun* 602, 603. 620, 621——Slight increase of voluntary emigration anticipated on account of the greater attraction of other colonies, *ib.* 604–608. 637–641.

Frequent instances of male emigrants and their families, on arriving in Western Australia, leaving it immediately for Melbourne, *Yule* 801. 825, 826——Occasional disappointment of Government emigrants on arrival in the colony, they having left this country on the impression that they were to be sent to Adelaide or Melbourne, *ib.* 826–828——More free emigrants than convicts have hitherto been sent to the colony, *Henderson* 1012, 1013——Expediency of encouraging emigration to the colony, *Rep. p.* iv.

*See* also *Female Emigrants. Price of Land.*

*Employment (Ticket-of-Leave Men).* If ticket-of-leave men were not sent out to Australia by Government, they would readily be hired without inquiry, *Hodgson* 108–111——Particulars as to the mode of treating the convicts or ticket-of-leave men in Western Australia, more especially as regards employment by Government and by the colonists, *Fitzgerald* 149–157——Facilities given by witness for their employment by the settlers; out of a total of 1,600, more than 1,000 were so employed when witness left the colony, *ib.* 152–162——Large proportion of ticket-of-leave men in private service in Western Australia, *Henderson* 911.

Means of employment in this country for convicts sent out at a great expense to Western Australia, *Jebb* 1222–1225——Facility, generally, with which ticket-of-leave men obtain employment, *ib.* 1226——Undue difficulties sometimes thrown in the way of the employment of ticket-of-leave men; occasional undue interference by local police

Report, 1856—*continued.*

*Employment ( Ticket-of-Leave Men )*—continued.

adverted to, *ib.* 1225-1233——Inexpediency of a system of Government employment of ticket-of-leave men, *ib.* 1271-1273——Course now pursued in order to procure employment for ticket-of-leave men directly on leaving prison; it is generally successful, *ib.* 1274, 1275.

*See* also *Labour. Wages.*

*Escape of Convicts.* Obstacles to the escape of ticket-of-leave convicts from Cape York, *Marsh* 56, 57. 59——Natural obstacles to the escape of convicts from Western Australia, *Henderson* 863——Very few escapes or attempt to escape, *ib.* 863-868——Facilities for the escape of convicts from Vancouver's Island, if at large on tickets of leave, *Miles* 1069, 1070. 1080-1085. 1100-1103.

*Expense ( Convict Establishments ).* Total amount of 297,621 *l.* voted by Parliament for the support of the convict establishments in the several colonies in the year ending 31 March 1856, *App. p.* 124.

F.

*Falkland Islands.* In 1847 the settlement was dependent on England for its food; but through arrangements brought about by witness, such is not now the case, *Rennie* 374, 375. 380, 381. 433. 442——There were about 600 residents, chiefly in the town of Stanley, in 1855; in 1847 there were about 150, *ib.* 376-379——Great numbers of wild cattle on the islands, *ib.* 382. 441——Mr. Lafone, of Monte Video, and subsequently the Falkland Islands Company, became possessed of a very considerable portion of the eastern island, *ib.* 382. 391-396——Claim some years ago of Buenos Ayres, and subsequently of the United States, to the possession of the islands, *ib.* 383, 384.

There was at one time a small penal settlement for Buenos Ayres, *Rennie* 383. 385, 386——Possession eventually of the islands by Great Britain in right of discovery, *ib.* 384. 387——Mode of allotment and sale of the land by Government, *ib.* 389-396——Stanley and the settlement of Hopeplan are almost the only inhabited places, *ib.* 397-402——Large number of ships which touch at Stanley for supplies or coals, and for refitting, *ib.* 403. 427-432——Absence of employment for the absorption eventually of convicts as free labourers, *ib.* 406-409. 462-465.

Neither corn nor trees can be grown, but vegetables may be produced in tolerable quantities, *Rennie* 410-426. 441-443. 461——Besides wild cattle there are large quantities of wild geese, rabbits, and fish, *ib.* 441. 463——Temperate and healthy climate of the islands, *ib.* 441-451. 461——Extent to which there may be an increased resort of ships to Stanley, and a consequent increase of urban population, *ib.* 452-454——Supply of coals at Stanley; whence derived, *ib.* 455-458——There is an abundant natural supply of peat, *ib.* 458, 459——There are no mineral products, *ib.* 460.

Very healthy character of the islands, *Sulivan* 468, 469——Sundry very great facilities afforded by the islands for a penal settlement, *ib.* 470——Great value of the tussac as food for the cattle, who die in large numbers when it fails, *ib.* 473-477. 497. 505——Obstacle to a penal settlement in there being no extensive grazing farms, or other adequate means for absorbing the employment of the ticket-of-leave men as free settlers, *ib.* 479-481. 497. 500-505——Anticipated large increase of population if there were a convict establishment, *ib.* 481.

The tussac grows only on the coast, but nearly the whole of the islands are covered with good pasture, *Sulivan* 481-484. 505——Character of the soil, *ib.* 485-489. 494-496——Barley and oats can be grown, but the ripening of wheat cannot be depended upon, *ib.* 490-493. 505——Considerable facilities for the establishment of a limited number of grazing farms, *ib.* 497. 501-505——Supply of corn from South America at a moderate price, *ib.* 498, 499——Cattle may, with proper management, be supplied in the islands to a considerable amount, *ib.* 504, 505.

Resolution of the Committee that it is not desirable to send convicted prisoners to the Falkland Islands, *App. p.* iii.

*See* also *Public Works*, 2.

*Female Convicts.* Female convicts generally marry in the Australian colonies, and frequently become quite reformed, *Marsh* 65-69——Female convicts have not been sent out to Western Australia, being objected to by the colonists, *Fitzgerald* 216. 218; *Henderson* 852. 944——Expediency, after a time, of sending out female convicts to any new penal settlement, *Hovell* 697——Belief that the transmission of female convicts to Western Australia would be very advantageous, *Henderson* 944-946——Strong feeling in the colony against their reception, *ib.* 944.

*Female Emigrants.* Willingness of emigrant girls to marry reformed convicts, *Hodgson* 134; *Fitzgerald* 205. 215——Great want of female emigrants in Western Australia, *Fitzgerald* 214, 215. 217. 219——Necessity of female emigrants or convicts in all penal settlements,

Report, 1856—*continued.*

*Female Emigrants*—continued.

settlements, *Stokes* 273, 274——Frequent instances in Western Australia of ticket-of-leave men marrying with female emigrants, *Broun* 615-619——Expediency of further means of providing females if the convict system be continued, *ib.* 647-649.

Deficiency of female population in the colony of Western Australia, *Yule* 762 —— Desirableness of encouraging the emigration of Irish females, who often marry ticket-of-leave men, *Yule* 792-795. 802, 803; *Henderson* 947, 948. 954——Though the paucity of females has not hitherto led to any crime, it is essential that female emigration accompany the increase in the number of convicts, *Henderson* 953, 954.

*Fitzgerald, Captain C., R. N.* (Analysis of his Evidence.)—Has for seven years been governor of Western Australia, 140, 141——Convicts came out first in 1850; 142—— During witness's governorship the population increased from 4,600 to 12,000, the increase comprising a large number of discharged convicts, 143-147——Excellent conduct in the main of the convicts sent to Western Australia, 148. 170. 205. 225-227——Particulars as to the mode of treating the convicts or ticket-of-leave men, with reference more especially to their employment by Government, and by the colonists, 149-157.

Wages given to the ticket-of-leave men in Western Australia respectively by Government and the settlers, 151. 157 — Facilities given by witness for their employment by the settlers; out of a total of 1,600, more than 1,000 were so employed, 152-162—— Great advantage of the convicts in the case of public works; instances of this, 162-166. 190. 196, 197——Approval of a considerable number being sent out annually, there being ample and increasing means for absorbing their labour, 166 *et seq.*

Misapprehension under which free settlers did not follow the introduction of convict labour, 167-170. 205——Numerous and important natural resources of the colony of Western Australia, 171-187. 207-212——Feeling in the colony in favour of the continued introduction of convict labour, 188, 189. 195. 204-206——Necessity generally of convicts for the well-being of the colony, 188-192. 209, 210——Advantage in sending out men, who are not the worst class of offenders, and are not sentenced for long periods, 190-194. 222-224.

Construction of wooden bridges in the colony, 198-203——Want of female emigrants, 214, 215. 217. 219——Female convicts have not been sent out, being objected to by the colonists, 216, 218——Extent of Government emigration at present, 220, 221—— Reference to the contemplated steam communication with Melbourne, &c., to the effect that Western Australia should be duly considered in the matter, 229——Result of some exploring expeditions from Western Australia in different directions, 230, 231.

*Forfeiture of License.* As a general rule every ticket-of-leave man, re-convicted of an offence, forfeits his license, *Jebb* 1252-1254——Steps taken for the withdrawal of the licence in case of conviction, *ib.* 1256-1259.

*Free Grants of Land.* Advantage in Western Australia of a system of free grants of land to voluntary settlers, instead of the condition that land must not be sold under 1 *l.* an acre, *Moore* 539. 542-549——The colonists do not look for free grants; but rather for land at a reduced price, *Yule* 822.

*Free Pardons.* Few free pardons granted to convicts in Western Australia; the Governor of the colony has no power hereon, *Henderson* 903-906.

Instead of tickets of leave it would be better to give short periods of remissions, and then a free pardon, *Jebb* 1268, 1269. 1276. 1280, 1281.

*Free Population.* Convicts and free emigrants might co-exist in a new colony for 40 or 50 years, *Marsh* 20——Circumstances generally which in time render convicts objectionable to free settlers, *ib.* 21——Misapprehension under which free settlers did not follow the introduction of convict labour into Western Australia, *Fitzgerald* 167-170. 205.

Necessity of providing that the convict population does not out-number the free population, *Moore* 533——Slow increase of the free population in Western Australia, *ib.* 532, 533——Expediency of a combined system of convict labour, and of free settlers who should be small proprietors; the latter cannot succeed without the former, *Hovell* 714-719. 733-736——Necessity of a certain proportion of free emigrants and small capitalists, *Yule* 821. 841-843.

Resolution of the Committee, that to make a colony a fitting place for the reception of convicts, it is necessary that there should be within it such an amount of free population as will prevent a great inequality in the sexes, and too great a disproportion of the convict element, *Rep. p.* iii.

*See* also *Emigration.* *Female Emigrants.* *Price of Land.*

Report, 1856—*continued.*

G.

*Gibraltar.* Sum of 19,015 *l.* voted by Parliament for the support of the convict establishment in the year ending 31st March 1856, *App. p.* 124——Total of 800 convicts chargeable to Government, *ib.*

*Gold Diggings.* Effect of the gold diggings in causing a deficiency of labour on the squattings in the Moreton Bay, &c., districts, *Hodgson* 102–105——Frequent non-employment at the gold diggings adverted to; willingness of the unsuccessful diggers to return to agricultural employment, *Hovell* 721–724——Importance of some stimulus to emigration to Western Australia, in order to compete with the greater attractions of the gold fields of Victoria, *Yule* 823, 824. 838–843.

*Gradation of Punishment.* Expediency of a maximum and mimimum sentence as an incentive to good behaviour, *Henderson* 901——More just gradation of punishment since the substitution of penal servitude at home for transportation to the colonies, *Jebb* 1146. 1205, 1206. 1211–1216——Inequality however at the present time, there rarely being any step between imprisonment with hard labour for twelve months, and penal servitude for four years; how this may be remedied, *ib.* 1169, 1170. 1175, 1176——Sentences for two or three years should be passed, and prisons specially appropriated to such cases, *ib.* 1176.

The discretionary power of the judge, under the Act 16 & 17 Vict., is so large, that alteration of the law is not necessary, *Jebb* 1203–1205——Inexpediency of the regulation that penal servitude men are liable, irrespectively of good conduct, to serve out their whole period, *ib.* 1262–1267——Great importance of a diminution of the sentence, or of a gradation of punishment below the maximum sentence, as an encouragement to good conduct, *ib.* 1263–1267——A maximum sentence should be passed, with power to release after servitude for a minimum term, *ib.* 1265, 1266. 1281.

*See* also *Military Prisons.*

*Gulf of Carpentaria.* See *Carpentaria, Gulf of.*

H.

*Henderson, Captain Edmund Yeamans Walcott, R.E.* (Analysis of his Evidence.)—Comptroller-general of convicts in Western Australia since 1850; left the colony in February last, 844–849——Took out 75 convicts in 1850, the first sent to the colony, 850, 851——Female convicts have not been sent out, 852——Altogether 3,911 convicts were received, 853——About 2,000 remained in charge in February last, 854.

Employment of the first detachments of convicts in building their own prison, 855–859——Good behaviour generally of the convicts, 856. 891. 912. 929–931. 953——Feeling at first among the colonists adverse to the introduction of convicts, 855. 1015——Subsequent popularity of the convict system, 855. 1015, 1016——Employment, after a time, of the convicts in road-making, 860, 861——Nature of the ticket-of-leave regulations; conditions under which each convict was assigned a particular district in which to do the best for himself, 862. 938, 939.

Natural obstacles to the escape of convicts from Western Australia, 863——Very few escapes or attempts to escape, 863–868——The men at first sent out were selected for their good conduct at Portland, 869——Latterly the worst and most incorrigible class of criminals have been sent out; official representation hereon made by witness, who considers that this system, if continued, will be a great detriment to the colony, 870–875. 884, 885. 891–896. 1000–1011.

Advantage if the convicts underwent part of their imprisonment in the colony before they got tickets of leave, instead of being sent direct from England as ticket-of-leave men, 876, 877. 932, 933——Importance, however, of some industrial training in the English prisons, 878–883——Probationary treatment in the colony before tickets of leave are granted, 886–888——The ticket-of-leave men are known as such to the colonists, 889, 890.

Satisfactory operation of the system of selection of convicts; the same is strongly desired by the settlers, and should be returned to forthwith, 891. 897–900. 1008, 1009——About 600 or 800, if not incorrigible or sickly, might advantageously be sent out annually, 899. 982——The colony might in fact absorb all those whom the mother country requires to send away, 899. 1009——Expediency of a maximum and minimum sentence as an incentive to good behaviour, 901——Few free pardons granted; the governor of the colony has no power hereon, 903–906——Advantage if the governor were empowered to grant conditional pardons, without previously communicating with the Secretary of State, 907–910.

Large proportion of ticket-of-leave men in private service, 911——Considerable power of their employers over them, 912, 913——The minimum rate of wages was fixed at 1 *l.* a month,

Report, 1856—*continued.*

*Henderson, Captain E. Y. W., R. E.* (Analysis of his Evidence)—*continued.*

month, 914. 934——Equal dearness of convict labour as of free labour, 915——Inequality and favouritism of the assignment system, though under it the colonists have the advantage of cheap labour, 915-917——Particulars as to the rations of the convicts not in private service, 918-928——The ticket-of-leave men frequently occupy land and employ labour, 929-931. 982.

Non-objection by the colonists to the minimum rate of wages of convicts, 934. 940——Regulation that the convict receive a portion only of his wages, and that the remainder be stopped for the payment of his passage; question as to the expediency of this regulation, 935-937. 940, 941. 956, 957. 960——Very few ticket-of-leave men who are mechanics are content to remain in Government employment, 937, 938——Regulation lately that ticket-of-leave men employed on public works should receive only 4*d.* a day, and should clothe themselves, 941, 942——Superabundance of tinkers and tailors among the convicts, 942, 943.

Belief that the transmission of female convicts would be very advantageous, 944-946——Strong feeling in the colony against the reception of female convicts, 944——Desirableness of encouraging the emigration of Irish females, who often marry ticket-of-leave men, 947, 948. 954——Practice in regard to the part payment by the convict of the expense of sending out his wife and family; his own passage-money is allowed to include that of his wife and two children, 949-951. 955-965——Single instance of a convict's wife and family becoming a temporary charge on the colonists, 952——Though the paucity of females has not hitherto led to any crime, it is essential that female emigration accompany any increase in the number of convicts, 953, 954.

Provision for the religious instruction of the convicts; mode of payment of the chaplains, 966, 967——Estimate of 36,000*l.* or 38,000*l.* as the revenue of the colony for the ensuing year; how composed, 968-970——Great importance of a considerable reduction in the price of land, the present price of 1*l.* per acre being a great deal too high, 971-984——Frequent departure of pardoned men from the colony to seek their fortunes in India, Singapore, &c., 984-987.

Anxiety generally of the convicts to lead a reformed life, to do which every chance is afforded them in the colony, 988-993——Willingness of the colonists to forget the past offences of the convicts, 990. 992, 993——Valuable co-operation of the magistrates in carrying out the convict system, 994——Number of magistrates in the colony; how paid, 995, 996——Mode of payment of the police, of whom there are from fifty to sixty, chiefly selected from emigrants and pensioners, 897-1000——Witness has merely left the colony on sick leave, 1001.

Considerable agricultural capabilities of the land in Western Australia, 1002. 1004——The pasture land is not so extensive as in other Australian colonies, 1002. 1004, 1005——Mineral resources of the colony; probability of gold being found, 1002, 1003. 1006, 1007——More free emigrants than convicts have hitherto been sent out, 1012, 1013——Expediency of removing all uncertainty in regard to the class or number of convicts to be sent, 1014——Reference to the Irish convicts or ticket-of-leave men as being well-conducted, and forming excellent labourers, 1014-1016.

*Hodgson, Arthur.* (Analysis of his Evidence.)—Has resided in the Moreton Bay district of New South Wales, as sheep farmer or squatter, since 1838; 75-77——Decided feeling at one time in Moreton Bay in favour of receiving convicts; witness was a prime advocate for them, 78-80. 88-90——Causes of the subsequent change of public opinion; feeling that convicts are a taint to society, 79, 80. 90-93. 106, 107. 130. 139——Very satisfactory result of the introduction of ticket-of-leave men into the Moreton Bay district; their labour was most useful to the settler, and they themselves, or at least the great mass of them, became reformed and useful members of society, 80-87. 91. 106-109. 131-134.

Important effect of the dispersion of ticket-of-leave men throughout the colony, as a means of reforming them, 86, 87——Means at present for providing the required labour in the Moreton Bay district; importation of Chinamen adverted to hereon, 91-93. 99. 102-111——Immense extension of squatters' districts during the last fourteen years, 94-98——Authority from the Crown under which new districts are taken up by the squatters, 100, 101——Witness holds 98,000 acres, 101——If ticket-of-leave men were not sent out by Government, they would readily be hired without inquiry, 108-111.

Suitableness of the Victoria River district for a convict settlement, 112-115. 123-126——Advantage of the assignment system, as facilitating the subsequent free employment of the men, 113-115——Insufficient inducement at Cape York for the establishment of a free settlement, 116-118. 127, 128——The natives are very numerous in some of the northern districts, 119-121——They are not useful as labourers, 122——Fatal result of Dr. Leichardt's expedition adverted to, 125, 126——Strong feeling among the colonists generally against the introduction of convict labour in Western Australia, as well as in the north-eastern districts, 130, 131. 135-139.

Report, 1856—*continued.*

*Hovell, William Hilton.* (Analysis of his Evidence.)—Has, in various capacities, resided for forty-three years in the Australian colonies, chiefly in New South Wales, 672–681 Views of Dr. Leichardt in favour of the district about the head of the Gulf of Carpentaria as a penal settlement, 682–684——Importance of convicts in a new settlement as the pioneers of civilization, 685–687. 735–745——Objection to convicts (as labourers) who have been for any length of time in prison in England, or have been under treatment on the silent system, 688–693. 698——The sooner they are sent out after conviction, and assigned to the settlers, the better, 688. 694, 695. 698–703.

Terms on which in New South Wales convict labour was assigned to the settlers, 696——Expediency, after a time, of sending out female convicts, 697——Greater value of the labour of the convict or ticket-of-leave man than of the free emigrant, 703. 714. 726–730——Necessity of convict labour in opening out the New South Wales colony; it was dispensed with too soon, 704. 717. 738, 739. 745——Importance of a considerable reduction in the price of land in Western Australia, or of its being given gratuitously to settlers, 705–713. 720——Advantage of the facilities offered at first to settlers in New South Wales, 705. 707. 709–711.

Expediency of a combined system of convict labour and of free settlers, who should be small proprietors; the latter cannot succeed without the former, 714–719. 733–736——Non-employment at the gold diggings adverted to; willingness of the unsuccessful diggers to return to agricultural employment, 721–724——Importance generally of the employment of convicts on public works in new settlements, such works being generally beyond the means of the original settlers, 737–745.

The Victoria River district is an eligible place for a new settlement, if the Albert River district be considered too near the Moreton Bay squatters, 745.

*Hudson's Bay Company's Territories.* None of the territories east of the Rocky Mountains combine the several appliances or natural resources desirable for a penal settlement, *Rae* 359, 360.——*See* also *Red River. Vancouver's Island.*

*Hulks.* Contemplated abolition of the system confinement in the hulks, *Jebb* 1155——Number of convicts now confined in the hulks at Woolwich, &c. *ib.* 1156——Some of the hulk convicts are under sentences of transportation for 15 years and upwards, *ib.* 1157–1159.——*See* also *Commutation of Sentence.*

## I.

*Irish Convicts (Western Australia).* Reference to the Irish convicts or ticket-of-leave men as being well-conducted, and forming excellent labourers, *Henderson* 1014–1016.

## J.

*Jebb, Colonel Joshua, R. E., C. B.* (Analysis of his Evidence.)—Has been connected with the convict prisons since 1838, and has been chairman since 1849 of the present Board of Management, 1135, 1136——When transportation ceased, except to Western Australia, there were in the prisons about 6,370 men under sentence of seven and ten years' transportation, 1137——Explanation as to, and defence of, the power to render it legal in certain cases to substitute, in lieu of transportation, penal servitude at home, with the additional power to impose the restrictions of a license on any convict released before the term of his original sentence has expired, 1137, 1138. 1141. 1147–1152. 1160–1168. 1242–1247.

Practice some 15 or 20 years ago to commute all sentences of transportation into imprisonment in the hulks for half the period, provided the conduct was satisfactory, 1137. 1155. 1172, 1173, 1242. 1263——Practice also in recent operation to give a ticket of leave after two years' imprisonment in the case of a man sentenced to seven years' transportation, and after about three years in the case of a sentence for ten or fourteen years, 1137. 1162. 1173, 1174. 1244, 1245——Origin of tickets of leave in the excellent scheme of convict management instituted by Lord Stanley (Lord Derby) and Sir J. Graham in Van Diemen's Land, 1139, 1140. 1163. 1237.

System at first of sending to Western Australia those convicts only who were the best and most useful men, 1142. 1179——Very few sentences to transportation since the Act of 1853, adverted to as explaining the transmission recently of a more criminal and less valuable class, and the consequent dissatisfaction in the colony, 1142–1145. 1177–1196——More just gradation of punishment since the substitution of penal servitude at home for transportation to the colonies, 1146. 1205, 1206. 1211–1216.

Statement as to four years' penal servitude being a fair commutation for a sentence of seven years' transportation, 1147. 1150–1155. 1163–1168——Difficulty in administering a combined system involving long sentences of penal servitude, as well as of transportation, 1147. 1160–1162——An average imprisonment of 12 months on the separate system,

Report, 1856—*continued.*

*Jebb, Colonel Joshua, R. E., C. B.* (Analysis of his Evidence)—*continued.*

system is in the main adequate for moral discipline, and consistent with health, 1148, 1149. 1152——As a general rule the period for transportation was never contemplated to be a period for imprisonment, 1150.

Strict confinement in the case of men sentenced to penal servitude, 1152, 1153——Contemplated abolition of the system of confinement in hulks, 1155——Number of convicts now confined in the several hulks at Woolwich, &c. 1156——Some of the hulk convicts are under sentences of transportation for fifteen years and upwards, 1157–1159——There is no particular limit to a sentence of transportation, 1159.

Similarity between the present system of penal servitude and the system first adopted by Lord Stanley in the Australian colonies, 1163——More deterrent effect of a sentence of penal servitude at home than of transportation to the colonies, 1165–1168. 1211–1213. 1237–1239——Inequality of punishment at present, there rarely being any step between imprisonment, with hard labour, for twelve months, and penal servitude for four years; how this may best be remedied, 1169, 1170. 1175, 1176——Inadequacy of short imprisonments as a means of reformation, 1170——Good conduct generally of the men transported from Pentonville, 1171.

Complaints from Western Australia have not been brought officially before witness, 1177. 1223——Prisoners under the longest sentences are not always the worst men, and may frequently be reclaimed with proper individual treatment, 1180, 1181. 1194——About 300 prisoners are now sentenced to transportation every year, and are, if ordered, sent to Australia, unless ineligible through ill health, 1184–1196——Exceptional circumstances, mainly on the ground of ill health, under which tickets of leave or pardons have sometimes been granted by the Secretary of State, after the expiration of a very short period only of a sentence of transportation or penal servitude, 1197–1202. 1234, 1235. 1267——Rare exceptions to the rule of carrying out all sentences of penal servitude to the full extent, 1197. 1202. 1248——Since the Act 16 & 17 Vict., 5,152 licenses or tickets of leave have been granted, 1202. 1249–1251.

The discretionary power of the judge, under the Act 16 & 17 Vict., is so large that alteration of the law is not necessary, 1203–1205——For the last two years there have been respectively 315 and 325 sentences of transportation, 1207——Inexpediency on several grounds of more numerous sentences of transportation in order to admit of a selection in the case of convicts sent to Western Australia, 1208, *et seq.*——Benefit to the colony, at the expense of Government, if more convicts be sent than during, or on the expiration of, their penal servitude are necessary for the labour market, 1208. 1217–1222. 1239–1241.

Advantages, generally, of penal servitude and imprisonment at home over a system of transportation, 1211, *et seq.*——Means of employment in this country for convicts sent at a great expense to Western Australia, 1222–1225——Vast proportion of the ticket-of-leave men in this country who are doing well and honestly; about eight per cent. only have been reconvicted, 1222. 1224–1226. 1250. 1272——Undue difficulties sometimes thrown in the way of the employment of ticket-of-leave men; occasional undue interference by local police adverted to hereon, 1225–1233——As a general rule every ticket-of-leave man, reconvicted of an offence, forfeits his licence, 1252–1254.

Regulations by which the Secretary of State is officially informed of the offences and recommittals of ticket-of-leave or pardoned convicts, 1255——Steps taken for the withdrawal of the licence in case of conviction, 1256–1259——In the case of some thousands under sentences of transportation 554 only have so misconducted themselves as not to be entitled to licences at the minimum period, 1260–1262——Inexpediency of the regulation that penal servitude men are liable, irrespectively of good conduct, to serve out their whole period, 1262–1267.

Great importance of a diminution of the sentence, or of a gradation of punishment below the maximum sentence, as an encouragement to good conduct, 1263–1267——A maximum sentence should be passed, with power to release after servitude for a minimum term, 1263. 1265, 1266. 1281——Very satisfactory working of the system of gradation of punishment in the military prisons, *ib.*——Doubt as to the expediency of an extension of the ticket-of-leave system on account of the creation thereby of a distinct and marked class, 1268, 1269. 1280——Instead of tickets-of-leave it would be better to give short periods of remissions, and then a free pardon, 1268, 1269. 1276. 1280, 1281.

The less restriction upon the liberty and action of the ticket-of-leave man the better, 1270. 1277–1279——Inexpediency of a system of Government employment of ticket-of-leave men, 1271–1273——Course now pursued in order to procure employment for ticket-of-leave men directly on leaving prison; it is generally successful, 1274, 1875——Ticket-of-leave men are now debarred from going to the colonies; they sometimes do go nevertheless, 1278, 1279.

Report, 1856—*continued.*

L.

*Labour.* Great importance of convict labour in the formation of new settlements, *Marsh* 11. 43–47; *Stokes* 267–272. 311, 312——Modes in which the labour of convicts might be absorbed in Western Australia, independently of public works, *Moore* 530——Importance of convict labour as a means of cultivating the land, *Broun* 653–655.

The sooner convicts are sent out after conviction and assigned to the settlers the better, *Hovell* 688. 694, 695. 698–703——Greater value of the labour of the convict or ticket-of-leave man than of the free emigrant, *ib.* 703, 704. 726–732——The London pickpocket makes an excellent labourer for the colonist, *ib.* 731, 732.

There is at times a slackness in the demand for convict labour as regards the settlers in Western Australia, *Yule* 755. 757——Gradual employment of labour by the convicts themselves on becoming conditional-pardon men, *Yule* 758; *Henderson* 929–931. 982——Superabundance of tinkers and tailors among the convicts, *Henderson* 942, 943.

Benefit to the colony of Western Australia, at the expense of Government, if more convicts be sent thither than during or on the expiration of their penal servitude are necessary for the labour market, *Jebb* 1208. 1217–1222. 1239–1241.

Resolution of the Committee that the advantage of transportation lies not so much in carrying into effect sentences of imprisonment and penal labour, as in employing convicts under more or less restraint in a community where their labour may be peculiarly valuable, and where the demand for it is such as to give facility for their subsequently finding ready employment as free labourers, and ultimately for advantageous settlement, *Rep. p.* iii.

In order to make a colony a fitting place for the reception of convicts, it is necessary that there should be a considerable demand for labour, either for public improvements or by private capital, *Rep. p.* iii.

*See* also *Employment, &c.* *Public Works.* *Wages.*

*Land.* See *Free Grants of Land.* *Price of Land.*

*Leichardt, Dr.* Fatal result of Dr. Leichardt's expedition adverted to, *Hodgson* 125, 126——Views of Dr. Leichardt in favour of the district about the head of the Gulf of Carpentaria as a penal settlement, *Hovell* 682–684.

*Licenses.* See *Tickets of Leave.*

M.

*Magistrates (Western Australia).* Valuable co-operation of the magistrates in carrying out the convict system, *Henderson* 994——Number of magistrates in the colony; how paid, *ib.* 995, 996.

*Marsh, Matthew Henry.* (Analysis of his Evidence.)—Has lived in New South Wales for fifteen years; now owns 100,000 sheep, 1, 2——The removal of convicts from the colony was at first very unpopular, but afterwards the proposal to bring them back became unpopular also, 3. 48–54——The objection to convicts is now general in all the settled districts of Australia, 4——In the northern district, comprising Moreton Bay and the adjoining districts, about to be constituted as a separate colony, it is now a settled question with all parties that opposition be made to the reception of convict labour, 4–17. 48–54.

Desirableness, in the abstract, of convict labour in new colonies, 11. 43–47——Approval particularly of the assignment system, 11. 34–36. 40–47. 61——The northern district, adverse to convict labour, includes Port Curtis, 18. 55——Evidence in favour of a convict establishment on the assignment system at Cape York, which is a long way from the settled district of Moreton Bay, and is a very eligible situation, 18–47. 55–64.

The Gulf of Carpentaria is also an eligible situation for convicts, 18——Expediency of convicts in the remote and non-settled districts, 19——Convicts and free emigrants might co-exist in a new colony for forty or fifty years, 20——Circumstances generally which in time render convicts objectionable, 21——Small capitalists and farmers mainly expected to go to Cape York if convict labour were employed there, 29–33——Injurious effect of the silent system as practised at Pentonville Prison, &c., upon the energies and abilities of transported convicts, 36–40.

Petitions from Moreton Bay in favour of convict labour before its separation from New South Wales was admitted, 48–54——Limited size proposed for the colony of Moreton Bay, &c., 55——Obstacles to the escape of convicts from Cape York, 56, 57. 59——There need be no apprehension that any of the convicts at Cape York would become pirates, 62–64——Female convicts generally marry in the colony, and frequently become quite reformed, 65–69——As a rule male convicts reform more or less, and many of them become very good and useful members of society, 70–74——Advantage if those convicted of violent crimes were not transported to Australia, 73.

Report, 1856—*continued.*

*Miles, John.* (Analysis of his Evidence.)—Spent six months in Vancouver's Island in 1854; 1046, 1047. 1055, 1056——The white population of the island is between 700 and 800, and the native population about 20,000; 1048——Friendly relations existing between the two classes, 1049, 1050——The whites are of the Anglo-Saxon race, 1051——The governor is appointed by the Crown, and resides at Victoria, 1053, 1054.

Particulars as to the climate, the soil, and the natural resources generally of the island, 1057 *et seq.*——Convict labour would be exceedingly valuable in the formation of public works, and in opening out the coal mines and other resources of the place, 1062. 1071–1079. 1114–1128——Disadvantage on account of the distance from England and the expense of the passage, 1063–1068. 1106-1108. 1119——Facilities for the escape of the convicts, if at large on tickets of leave, 1069, 1070. 1080–1085. 1100–1103.

Limited extent to which land is sold or farming carried on, 1090–1097. 1104. 1124——The price of 1 *l.* per acre for land is considered too high, 1092–1096. 1129——Doubt as to any increase of immigration from England or America, 1106. 1129——The settlers differ in opinion in regard to convict labour, 1113, 1114——Esquimalt possesses a very fine harbour, but Victoria has other advantages for the chief settlement, 1120, 1121——The Hudson's Bay Company work the coal mines, 1133——Labour is at present expensive, 1134.

*Military Prisons.* Very satisfactory working of the system of gradation of punishment in the military prisons, *Jebb* 1263-1267.

*Moore, George Fletcher.* (Analysis of his Evidence).—Was Commissioner of the first Civil Court established in Western Australia, and subsequently for about twenty years filled the office of Advocate-general of the colony, 506–509——Left the colony about eighteen months after the first introduction of convicts, 510. 522——The colony is well suited for the reception of convicts, and their labour is very much required, 511 *et seq.*

General feeling in the colony in favour of convict labour, though at first witness and many others were opposed thereto, 512. 523–529——Considerable natural resources and attractions of the colony for free settlers, though the attractions of the gold and copper mines are doubtless much greater, 513. 537–558. 572–575——Proportionate employment of convict labour by the settlers, according to the terms on which it may be obtained, 514–516. 531. 560–568.

Public works on which convicts might advantageously be employed, 517–521——Decided advantage to the colony through the introduction of convicts, and the consequently large expenditure of Government money, 524–529——When convicts first arrived, the free population was about 7,000; 526——Modes in which the labour of convicts might be absorbed, independently of public works, 530——Necessity of providing that the convict population does not outnumber the free population, 531——Slow increase of the free population, 532, 533——Expediency of continued emigration at the expense of Government, 534-541.

Considerable agricultural capabilities of the colony, 538. 552. 558. 571-575——Advantage of a system of free grants of land to voluntary settlers, instead of the condition that land must not be sold under 1 *l.* an acre, 539. 542–549——Peculiar adaptation of the climate and soil for the growth of wine, 552–558——Expediency of convict labour being obtainable at low terms, especially when the convicts first arrive; rate of wages suggested, 560-568. 577.

Excellent conduct, in the main, of the ticket-of-leave men, as employed by the settlers, 569–571——Relative position of a convict in the Government depôt and of one in the service of a settler; better position, in some respects, of the former, 576-580——Inducement formerly held out by Government that settlers investing a capital in the land, at the rate of 1 *s.* 6 *d.* an acre, should have free grants of such land; how these terms worked, 582–585.

*Moreton Bay.* In that portion of Australia comprising Moreton Bay and the adjoining districts, about to be constituted as a separate colony, it is now a settled question with all parties that opposition be made to the reception of convict labour, *Marsh* 4-17. 48-54 Opposition made to convicts as tending to lower the price of labour, *ib.* 6——Reference to petitions from Moreton Bay in favour of convict labour, before its separation from New South Wales was admitted, *ib.* 48–54——Limited size proposed for the colony, *ib.* 55.

Decided feeling at one time in Moreton Bay in favour of receiving convicts; witness was a prime advocate for them, *Hodgson* 78–80. 88–90——Cause of the subsequent change of public opinion; feeling that convicts are a taint to society, *ib.* 79, 80. 90–93. 106, 107. 130. 139——Very satisfactory result of the introduction of ticket-of-leave men into the district; their labour was most useful to the settler, and they themselves became reformed and useful members of society, *ib.* 80–87. 91. 106–109. 131–134——Means at present for providing the required labour in the district; importation of Chinamen adverted to hereon, *ib.* 91–93. 99. 102–111.

Resolution of the Committee that it is not desirable to send convicted prisoners to Moreton Bay, *Rep. p.* iii.

*See* also *Albert River.* *Cape York.*

Report, 1856—*continued.*

N.

*Native Population* (*Australia*). The Aborigines are most numerous where there are fish rivers, or where fish may be abundantly found on the coast, *Marsh* 27——The natives are very numerous in some of the northern districts, *Hodgson* 119-121——They are not useful as labourers, *ib.* 122——The Aborigines are to be met with along the northern coast, and for certain distances in the interior; they are savage and treacherous, *Stokes* 249-251. 325-328——The natives of some of the islands on the north east coast are of a most treacherous disposition, *Dayman* 1045.

*Navigation* (*Australian Coast*). The whole of the north east coast has been accurately surveyed; there are many shoals, but the navigation cannot be considered difficult, *Dayman* 1040. 1042——*See* also *Carpentaria, Gulf of.*

*New South Wales.* The removal of convicts from the colony was at first very unpopular, but afterwards the proposal to bring them back became unpopular also, *Marsh* 3. 48-54——Terms on which convict labour was assigned to the settlers, *Hovell* 696——Necessity of convict labour in opening out the colony; it was dispensed with too soon, *ib.* 704. 717. 738, 739. 745——Advantage of the facilities offered at first to settlers in the colony, *ib.* 705. 707. 709-711.

Sum of 5,800 *l.* voted by Parliament for the support of the convict establishment in the year ending 31st March 1856, *App. p.* 124——Total of 500 convicts chargeable, *ib.*

*Non-settled Districts.* Expediency of convicts in the remote and non-settled districts of Australia, *Marsh* 19——Result of some exploring expeditions from Western Australia in different directions, *Fitzgerald* 230, 231.

*North Australia.* Return, dated Colonial Office, 30th June 1856, explaining the non-formation of a new penal colony in North Australia, *App. p.* 124.

*See* also *Albert River. Broad Sound. Gulf of Carpentaria. Port Curtis. Sweers's Island.*

*Number of Sentences.* When transportation ceased, except to Western Australia, there were in the prisons about 6,370 men under sentence of seven and ten years transportation, *Jebb* 1137——For the last two years there have been respectively 315 and 325 sentences of transportation, *ib.* 1207.

P.

*Passage Money.* Necessary re-payment by the conditional pardon men in Western Australia of the cost of their passage; effect of this arrangement upon their rate of wages, *Fitzgerald* 151; *Moore* 577——Doubt as to the arrangements having any effect upon the rate of wages, *Broun* 663-666——The necessary repayment by the convict of the cost of his passage falls ultimately on the settler, *Yule* 810, 811.

It is not indispensable that the convict should pay up the whole of his passage money before he applies to have his wife and family sent out to him, *Yule* 813——The passage of the wife and family is only partly paid paid for by the convict, *ib.* 814.

Regulation that the convict receive a portion only of his wages, and that the remainder be stopped for the payment of his passage; question as to the expediency of this regulation, *Henderson* 935-937. 940, 941. 956, 957. 966——Practice in regard to the part payment by the convict of the expense of sending out his wife and family; his own passage money is allowed to include that of his wife and two children, *ib.* 949-951. 955-965.

Resolution that the provision by which the convict is called upon to repay the expense which has been incurred in carrying him out to Australia, and in certain cases of paying a proportion of the expense of sending out his family, has the effect of unduly raising the price of labour to the colonist, and of throwing obstacles in the way of bringing out their families; the Committee recommend an early reconsideration of these provisions, *Rep. p.* iv.

*Penal Servitude at Home.* Explanation as to, and defence of, the power to render it legal in certain cases to substitute, in lieu of transportation, penal servitude at home, with the additional power to impose the restrictions of a license on any convict released before the term of his original sentence has expired, *Jebb* 1137, 1138. 1141. 1147-1153. 1160-1168. 1242-1247——Statement as to four years' penal servitude being a fair commutation for a sentence of seven years' transportation, *ib.* 1147. 1150-1155. 1163-1168——Difficulty in administering a combined system, involving long sentences of penal servitude as well as transportation, *ib.* 1147. 1160-1162——Strict confinement in the case of men sentenced to penal servitude, *ib.* 1152, 1153.

Similarity between the present system of penal servitude and the system first adopted by Lord Stanley in the Australian colonies, *Jebb* 1163——More deterrent effect of a sentence of penal servitude at home than of transportation to the colonies, *ib.* 1165-1168. 1211-1213.

Report, 1856—*continued.*

*Penal Servitude at Home*—continued.

1211–1213. 1237–1239——Rare exception to the rule of carrying out all sentences of penal servitude to the full extent, *Jebb* 1197. 1202. 1248——Advantages generally of penal servitude and imprisonment at home over a system of transportation, *ib.* 1211 *et seq.*

Resolution of the Committee that it is desirable to review and to revise the provisions of the Act 16 & 17 Vict. c. 99, by which the terms of transportation, as previously existing, were commuted for shorter terms of penal servitude in England, *Rep. p.* v——Question as to such commutation being founded on just principles. *ib.*

*See* also *Gradation of Punishment. Selection (Transported Convicts). Tickets of Leave.*

*Penal Settlements.* See *Albert River (Northern Australia). Cape York. Carpentaria, Gulf of. Champion Bay, &c. Falkland Islands. Moreton Bay. New South Wales. Non-settled Districts. Port Curtis. Red River. Sweers's Island. Vancouver's Island. Victoria River. Western Australia.*

*Pentonville Prison.* Good behaviour at Moreton Bay of the ticket-of-leave men from Pentonville; the great mass of them have become quite reformed, *Marsh* 70–74; *Hodgson* 80–87. 131–134——Good conduct generally of the men transported from Pentonville, *Jebb* 1171.

*Police (Western Australia).* Mode of payment of the police, of whom there are from 50 to 60, chiefly selected from emigrants and pensioners, *Henderson* 997–1000.

*Port Curtis.* The northern district of Australia adverse to convict labour includes Port Curtis, *Marsh* 18. 55——Excellent character of Port Curtis for the formation of a new colony with a view to the reception of convicts, *Dayman* 1021–1025——Formation by Government, and subsequent abandonment in 1846, of a colony at Port Curtis, *ib.* 1023. 1032——Probability of objections being now raised in New South Wales, if not in Moreton Bay, to a convict establishment at Port Curtis, *ib.* 1024. 1026.

Return, dated Colonial Office, 30 June 1856, showing that Port Curtis was selected as the site of a penal colony, but was afterwards abandoned, *App. p.* 124.

*Port Essington.* Want of encouragement to settlers on the formation of this settlement, *Stokes* 309.

*Portland.* Men who have been employed at Portland, &c., are not any more proficient when sent to Western Australia, *Yule* 773.

*Price of Land.* Inducement formerly held out by Government that settlers in Western Australia, investing a capital in the land at the rate of 1*s.* 6*d.* an acre, should have free grants of such land; how these terms worked, *Moore* 582–585; *Broun* 623, 624——Great importance of a considerable reduction in the price of land in Western Australia as an encouragement to settlers, the upset price of 1*l.* an acre being much too high, *Broun* 625–639; *Hovell* 705–713. 720; *Yule* 758–760. 765–768. 814–816. 822. 829–833; *Henderson* 971–984——Land should be allotted at about 5*s.* instead of at 1*l.* per acre, *Yule* 829–831.

The price of 1*l.* per acre for land in Vancouver's Island is considered too high, *Miles* 1092–1096. 1129.

Recommendation of the Committee in favour of a large reduction in the price of land in Western Australia as well as in any other colony in which convicts are received, *Rep. p.* iv.

*Prison Discipline.* Importance of some industrial training in the English prisons before convicts are sent to the colonies, *Henderson* 878–883——Inadequacy of short imprisonments as a means of reformation, *Jebb* 1170.

*Probationary Treatment.* Nature of the treatment in the colony of Western Australia before tickets of leave are granted, *Henderson* 886–888.

*See* also *Gradation of Punishment. Separate System.*

*Public Works:*

1. *Importance generally of Convict Labour hereon in New Settlements.*
2. *Falkland Islands.*
3. *Western Australia.*
4. *Vancouver's Island.*

1. *Importance generally of Convict Labour hereon in New Settlements:*

Advantage of convicts in a new settlement as the pioneers of civilization, *Hovell* 685–687. 735–745——Importance generally of the employment of convicts on public works in new settlements, such works being generally beyond the means of the original settlers, *ib.* 737–745——Advantage if the convicts were sent out immediately after conviction, and employed upon public works, instead of being sent out as ticket-of-leave men, ready

Report, 1856—*continued.*

*Public Works*—continued.

1. *Importance generally of Convict Labour hereon in New Settlements*—continued.

for private employment, *Yule* 769–790——Before tickets of leave are granted, the convicts should be employed in the colony, under coercion, on public works, &c. *ib.* 775–778——There need be no apprehension of demoralization on account of the men working together in large numbers, *ib.* 785–787.

Advantage to the colony, at the expense of Government, when convicts are employed on public works, *Jebb* 1208. 1217–1222. 1239–1241.

2. *Falkland Islands:*

Expediency of the erection of a patent slip at Stanley, *Rennie* 404, 405. 435, 436——No other public works are required, *ib.* 404, 405. 433–440. 466——Obstacles to the formation of a dry dock at Stanley, *ib.* 405——Public works on which convicts might advantageously be employed; docks and tussac fences are especially wanted, *Sulivan* 470–478.

3. *Western Australia:*

Great advantage of the convicts in the case of public works; instances of this, *Fitzgerald* 150. 162–166. 190. 196, 197; *Henderson* 855–859. 898——Employment of the first detachments of convicts in building their own prison, *Fitzgerald* 150; *Henderson* 855–859—— Sundry public works on which convicts might be usefully employed, *Moore* 517–521; *Broun* 609–613; *Yule* 780–784. 788——Advantage if convicts were employed in building a jetty at Fremantle, *Moore* 517.

4. *Vancouver's Island:*

Convict labour would be exceedingly valuable in the formation of public works, and in opening out the coal-mines and other resources of the place, *Miles* 1062. 1071–1079. 1114–1128.

*See* also *Bridges. Labour. Roads.*

R.

*Rae, John, M. D.* (Analysis of his Evidence.)—Is well acquainted with the Hudson's Bay Company's territories east of the Rocky Mountains, 358——Considers that none of these territories combine the several appliances or natural resources desirable for a penal settlement, 359, 360——As regards Vancouver's Island, the climate is fine, the soil fertile, and the natural resources very numerous, 361, 362——The native inhabitants of the island are a warlike people, 363——The Hudson's Bay Company have a settlement there, 363. 370——The modes of communication with the island are at present exceedingly difficult, 364–369.

*Rations (Western Australia).* Particulars as to the rations of the convicts not in private service, *Henderson* 918–928——The ration is less than is allowed in English prisons, *ib.* 919——Doubt as to the ration being higher than that of the military force in the colony, *ib.* 920–925——The present ration is 18 oz. of bread, 14 oz. of meat, and 12 oz. of potatoes, *ib.* 922——Extra rations to sawyers and blacksmiths, *ib.* 926.

*Reconvictions (Ticket-of-Leave Men).* Regulation by which the Secretary of State is officially informed of the offences and re-committals of ticket-of-leave or pardoned convicts, *Jebb* 1255.——*See* also *Forfeiture of Licence.*

*Red River.* There are two routes to the Red River settlement; one by Hudson's Bay and by boat from the York Factory, and the other by the Canadian rivers, *Caldwell* 341–343. 353—— The settlement is exceedingly difficult of access by either route, and is not suitable for the formation of a convict establishment, *ib.* 344–355——Hudson's Bay cannot be calculated upon as navigable for more than about six weeks in the year, *ib.* 345–351——Illustration of the difficulty of the route from York Factory, *Rae* 360.

Resolution of the Committee, that it is not desirable to send convicted prisoners to the Red River, *Rep. p.* iii.

*Reformation.* As a rule, male convicts transported to Australia reform more or less, and many of them become very good and useful members of society, *Marsh* 70–74——Several convicts sent to Western Australia have become renters of land and employers of labour, *Fitzgerald* 192–194——Few instances of the necessity of severe punishment. *ib.* 225–227——Excellent conduct in the main of the convicts or ticket-of-leave men in Western Australia, *Fitzgerald* 148. 170. 205. 225–227; *Moore* 569–571; *Broun* 590–593, 661, 662; *Yule* 751–754. 804–808; *Henderson* 856. 891. 912. 929–931. 953.

As a general rule, the convicts in the colony of Western Australia may be said to amalgamate exceedingly well with the free population, from whose taunts they are protected by law, *Yule* 750. 809——Frequent departure of pardoned men from the colony to seek their fortunes in India, Singapore, &c, *ib.* 984–987——Anxiety generally of the convicts to lead a reformed life, to effect which every chance is afforded them in the colony,

Report, 1856—*continued.*

*Reformation*—contiuued.

colony, *Yule* 988-993——Prisoners under the longest sentences are not always the worst men, and may frequently be reclaimed with proper individual treatment, *Jebb* 1180, 1181. 1194.

*See* also *Assignment System. Commutation of Sentence. District Supervision. Gradation of Punishment. Irish Convicts. Prison Discipline. Probationary Treatment. Selection (Transported Convicts). Separate System. Tickets of Leave.*

*Religious Instruction (Western Australia).* Provision for the religious instruction of the convicts; mode of payment of the chaplains; *Henderson* 966, 967.

*Rennie, George.* (Analysis of his Evidence.)—Was appointed governor of the Falkland Islands in 1847; left the settlement in November last, 371-373——In 1847 the settlement was dependent on England for its food, but through arrangements brought about by witness such is not now the case, 374, 375. 380, 381. 433. 442——There were about 600 residents, chiefly in the town of Stanley, when witness left; in 1847 there were about 150; 376-379——Great numbers of wild cattle on the islands, 382. 441——Mr. Lafone, of Monte Video, and subsequently the Falkland Islands Company, became possessed of a very considerable portion of the eastern island, 382. 391-396.

Claim some years ago of Buenos Ayres, and subsequently of the United States, to the possession of the islands, 383, 384——There was at one time a small penal settlement from Buenos Ayres, 383. 385, 386——Possession eventually of the islands by Great Britain in right of discovery, 384. 387——Allotment and sale of the land by Government, 389-396——Stanley and the settlement at Hopeplan are almost the only inhabited places, 397-402.

Large number of ships which touch at Stanley for supplies, or coals, and for refitting, 403. 427-432——Expediency of the erection of a patent slip at Stanley, 404, 405. 435, 436——No other public works are required, 404, 405. 433-440. 466——Obstacle to the formation of a dry dock, 405——Absence of employment for the absorption eventually of convicts as free labourers, 406-409. 462-465——Neither corn nor trees can be grown, but vegetables may be produced in tolerable quantities, 410-426. 441-443. 461.

Besides wild cattle there are large quantities of wild geese, rabbits, and fish, 441. 463——Temperate and healthy climate of the islands, 444-451. 461——Extent to which there may be an increased resort of ships to Stanley, and a consequent increase of urban population, 452-454——Supply of coals at Stanley; whence derived; 455-458——There is an abundant natural supply of peat as fuel, 458, 459——There are no mineral products, 460.

*Roads.* Road in Western Australia 270 miles long, constructed through means of the convicts, *Fitzgerald* 162. 165. 196, 197——Employment, about July 1851, of the convicts in road-making, *Henderson* 860, 861.

*Rural Convict Depôts (Western Australia).* System of rural convict depôts so as to bring the convicts within reach of the colonists, *Yule* 755, 756.

S.

*Selection (Transported Convicts).* Disadvantage in those men convicted of violent crimes being transported to Australia, *Marsh* 73——Advantage to Western Australia in sending out men who are not the worst class of offenders, and are not sentenced for long periods, *Fitzgerald* 190-194. 222-224——Dissatisfaction in the colony on account of the more criminal class of convicts lately sent out, *Broun* 658-660.

System at first of sending to Western Australia those convicts only who were the best and most useful men, *Henderson* 869; *Jebb* 1142-1179——Latterly, the worst and most incorrigible class of criminals have been sent out; official representations hereon made by witness, who considers that this system, if continued, will be a great detriment to the colony, *Henderson* 870-875. 884, 885. 891-896. 1008-1011——Satisfactory operation of the system of selection of convicts; the same is strongly desired by the settlers, and should be returned to forthwith, *ib.* 891. 897-900. 1008, 1009.

Very few sentences of transportation since the Act of 1853, adverted to as explaining the transmission recently of a more criminal and less valuable class, and the consequent dissatisfaction in the colony, *Jebb* 1142-1145. 1177-1196——Complaints from Western Australia have not been brought officially before witness, *ib.* 1177. 1223——About 300 prisoners are now sentenced to transportation every year, and are, if ordered, sent out to Western Australia, unless ineligible through ill health, *ib.* 1184-1196——Inexpediency, on several grounds, of more numerous sentences of transportation, in order to admit of a selection in the case of convicts sent to Western Australia, *ib.* 1208, *et seq.*

Resolution, that in Western Australia transportation appears to have been carried out with advantage to the colony, with satisfaction to the colonist, and with benefit to the convicts themselves, until a change was made in the selection of the convicts sent from

Report, 1856—*continued.*

*Selection (Transported Convicts)*—continued.

home, under the Act of 16 & 17 Vict. c. 99; that Act being now in full force, the power of selection which previously existed has practically ceased, and the worst class of offenders is now sent out, instead of a less depraved one as before, *Rep. p.* iv——It is essential to revert without delay to the previous practice of selection, *ib.*

*Sentences of Transportation.* There is no particular limit to a sentence of transportation; two sentences are sometimes passed for the same case, *Jebb* 1159.

*See* also *Commutation of Sentence. Gradation of Punishment. Number of Sentences.*

*Separate System.* Injurious effect of the silent or separate system, as practised at Pentonville Prison, &c., upon the energies and abilities of transported convicts, *Marsh* 36–40——Objection to convicts (as labourers) who have been for any length of time in prison in England, or have been under treatment on the silent system, *Hovell* 688–693. 698——An average imprisonment of twelve months on the separate system is in the main adequate for moral discipline, and consistent with health, *Jebb* 1148, 1149. 1152.

*Settled Districts* (*Australia*). The objection to convicts is now general in all the settled districts of Australia, *Marsh* 4——Immense extension of squatters' districts during the last fourteen years, *Hodgson* 94–98——Authority from the Crown under which new districts are taken up by the squatters, *ib.* 100, 101.

*Steam Communication* (*Australian Colonies*). Reference to the contemplated steam communication with Melbourne, &c., to the effect that Western Australia should be considered in the matter, *Fitzgerald* 229.

*Stokes, Captain John Lort, R. N.* (Analysis of his Evidence.)—Served on the northern coast of Australia between the years 1836 and 1851; commanded the "Beagle" surveying ship, 232–234. 333, 334——There is not sufficient body of land at Cape York for a new settlement, 235, 236. 322——The district near the Albert River, at the head of the Gulf of Carpentaria, is peculiarly eligible for a new colony, 236 *et seq.*——At Victoria River the climate is too warm for a settlement, and the land is not so good as at Albert River, 239-241. 245.

Evidence as to the favourable character of the temperature at the Albert River, 241–244. 269. 276–278. 301, 302. 306, 307——Good character of the soil and the country, 246. 278–280——The aborigines are to be met with along the northern coast, and for certain distances in the interior; they are savage and treacherous, 249–251. 325–328——Useful wood in the Albert River district, 252-256——Safe navigation in the Gulf of Carpentaria, and along the northern coast, 258, 259. 331, 332.

Great importance of convict labour in the formation of new settlements, 262–272. 311, 312——Necessity, also, of female emigrants or convicts, 273, 274——Settlers from Moreton Bay are fast approaching towards Albert River, 269. 302. 305——Suggested use of Sweers's Island as a small preliminary depôt for convicts, and as a harbour for the mainland; it is more eligible than Bentinck Island or Mornington Island, 280-297——Obstacle to a harbour on the mainland for large ships, 295, 296. 299——The settlement should be about thirty miles up the river, 298–302.

There might be a station for coaling vessels, and for pilots, &c., at Cape York, 308. 318-320——Expediency of Government encouraging settlers at Albert River; land should be allotted at a very small price, 309, 310——Small and temporary convict establishment desirable at Cape York, 313-322——Similarity of the Gulf of Carpentaria to Port Philip as the natural outlet on the coast for interior settlements, 336.

*Sulivan, Captain Bartholomew James, R. N.* (Analysis of his Evidence.)—Is thoroughly conversant with the Falkland Islands, upon the survey of which he has been engaged, and in which he has resided, 468——Very healthy character of the islands, 468, 469——Sundry very great facilities afforded by the islands for a penal settlement, 470——Public works on which convicts might advantageously be employed; docks and tussac fences are especially wanted, 470-478——Great value of the tussac as food for the cattle, who die in large numbers when it fails, 473-477. 497. 505.

Obstacle to a penal settlement in there being no extensive grazing farms or other adequate means for absorbing the employment of the ticket-of-leave men as free settlers, 479–481. 497. 500–505——Anticipated large increase of population if there were a convict establishment, 481——The tussac grows only on the coast, but nearly the whole of the islands is covered with good pasture, 481–484. 505——Character of the soil, 485–489. 494-496.

Barley and oats can be grown, but the ripening of wheat cannot be depended upon, 490-493. 505——Considerable facilities for the establishment of a limited number of grazing farms, 497. 501-505——Supply of corn from South America at a moderate price, 498, 499——Cattle may, with proper management, be supplied in the islands to a considerable amount, 504, 505.

Report, 1856—*continued.*

*Sweers's Island.* Suggested use of Sweers's Island (northern coast of Australia) as a small preliminary depôt for convicts, and as a harbour for the mainland; it is more eligible than Bentinck Island or Mornington Island, *Stokes* 280–297.

T.

*Tickets of Leave.* Excellent conduct in the main of the ticket-of-leave men in Western Australia, *Fitzgerald* 148. 170. 205. 225–227; *Moore* 569–571; *Broun* 590–593. 661, 662; *Yule* 751–754. 804–808; *Henderson* 856. 891. 912. 929–931. 953——Advantage if the convicts underwent a part of their imprisonment in the colony before they got tickets of leave, instead of being sent direct from England as ticket-of-leave men, *Hovell* 688. 694, 695. 698–703; *Yule* 769–790; *Henderson* 876, 877. 932, 933——The ticket-of-leave men are known as such in the colony, *Henderson* 889, 890——They frequently become occupiers of land and employers of labour, *Yule* 758; *Henderson* 929–931. 982.

Origin of tickets of leave in the excellent scheme of convict management instituted by Lord Stanley (Lord Derby) and Sir James Graham in Van Diemen's Land, *Jebb* 1139, 1140. 1163. 1237——Exceptional circumstances, mainly on the ground of ill health, under which tickets of leave or pardons have sometimes been granted by the Secretary of State, after the expiration of a very short period only of a sentence of transportation or penal servitude, *ib.* 1197–1202. 1234, 1235. 1267——Since the Act of 16 & 17 Vict., 5,152 licenses or tickets-of-leave have been granted, *ib.* 1202. 1249–1251.

Vast proportion of the ticket-of-leave men in this country who are doing well and honestly; about 8 per cent .only have been re-convicted, *Jebb*, 1222. 1224–1226. 1250. 1272——In the case of some thousands under sentences of transportation, 554 only have so misconducted themselves as not to be entitled to the licenses at the minimum period, *ib.* 1260–1262.

Doubt as to the expediency of an extension of the ticket-of-leave system, on account of the creation thereby of a distinct and marked class, *Jebb*, 1268, 1269. 1380——The less restriction upon the liberty and action of the ticket-of-leave men the better, *ib.* 1270. 1277–1279——Ticket-of-leave men are now debarred from going to the colonies; they sometimes do go nevertheless, *ib.* 1278, 1279.

*See* also *Assignment System. Commutation of Sentence. District Supervision. Employment. Forfeiture of License. Free Pardons. Labour. Pentonville Prison. Probationary Treatment. Public Works. Re-convictions. Reformation. Wages.*

V.

*Vancouver's Island.* The climate of this island is fine, the soil fertile, and the natural resources very numerous, *Rae* 361, 362——The native inhabitants are a warlike people, *ib.* 363——The Hudson's Bay Company have a settlement there, *ib.* 363. 370——The modes of communication with the island are at present exceedingly difficult, *ib.* 364–369——The common route is from Canada, by the lakes and by rivers, and across the Rocky Mountains, *ib.* 364–366——The route by which goods are mainly sent is by Cape Horn, which takes about three months, *ib.* 366–369.

The white population of the islands is between 700 and 800, and the native population about 20,000, *Miles* 1048——Friendly relations existing between the two classes, *ib.* 1049, 1050——The whites are of the Anglo Saxon race, *ib.* 1051——The Governor is appointed by the Crown, and resides at Victoria, *ib.* 1053, 1054.

Particulars as to the climate, the soil, and the natural resources generally of the island, *Miles* 1057, *et seq.*——The climate is good, *ib.* 1057. 1071——The soil is excellent, and produces corn and other crops in abundance, *ib.* 1059——The pasture naturally is not good, but will eventually be so, *ib.* 1060. 1123, 1124——Disadvantage on account of the distance from England and the expense of the passage, *ib.* 1063–1068. 1106–1108. 1119——There is an abundance of valuable timber, such as oak, fir, and arbutus, *ib.* 1063, 1064. 1131——There are extensive coal mines, which might be advantageously worked by convicts, *ib.* 1071–1079. 1098, 1099.

Limited extent to which land is sold or farming carried on, *Miles* 1090–1097. 1104. 1124——There are immense quantities of fish, *ib.* 1105——Doubt as to any increase of immigration from England or America, *ib.* 1106. 1129——The settlers differ in opinion in regard to convict labour, *ib.* 1113, 1114——Esquimalt possesses a very fine harbour, but Victoria has other advantages for the chief settlement, *ib.* 1120, 1121——English trees and vegetables thrive remarkably well, *ib.* 1130——The Hudson's Bay Company work the coal mines, *ib.* 1133——Labour is at present expensive, *ib.* 1134.

Resolution of the Committee that the evidence is not sufficiently ample to warrant a present decision in regard to Vancouver's Island: the position is of importance: the soil

Report, 1856—*continued.*

*Vancouver's Island*—continued.

and climate are good, and might be made inviting to free settlers, therefore the point may be deemed worthy of further inquiry by the Government, *Rep. p.* iii, iv.

*See* also *Escape of Convicts.* *Public Works*, 4.

*Van Diemen's Land.* Sum of 142,236 *l.* voted by Parliament for the support of the convict establishments in the year ending 31st March 1856, *App. p.* 124——Total of 4,000 convicts chargeable, *ib.*

*Victoria River (Australia).* Suitableness of the Victoria River district for a convict settlement, *Hodgson* 112-115. 123-126——At Victoria River the climate is too warm for a settlement, and the land is not so good as at Albert River, *Stokes* 239-241. 245——The Victoria River district is an eligible place for a new settlement, if the River Albert district be considered too near the Moreton Bay squatters, *Hovell* 745.

W.

*Wages (Western Australia).* Wages given to the ticket-of-leave men respectively by Government and the settlers, *Fitzgerald* 151. 157——Argument for and against the ticket-of-leave men demanding higher wages than the free labourers, *ib.* 151——Proportionate employment of convict labour by the settlers, according to the terms on which it may be obtained, *Moore* 514-516. 531. 560-568——Expediency of convict labour being obtainable at low terms, especially when the convicts first arrive; rate of wages suggested, *ib.* 560-568. 577.

Regulation that a ticket-of-leave man must accept wages at the rate of 1 *l.* a month, besides his food, *Brown* 666, 667; *Henderson* 914. 934——Equal wages obtained by the convict as by the free labourer, *Yule* 812; *Henderson* 915——Non-objection by the colonists to the minimum rate of wages of convicts, *Henderson* 934. 940——Very few ticket-of-leave men who are mechanics are content to remain in Government employment, *ib.* 937, 938——Regulation lately that ticket-of-leave men employed on public works should receive only 4 *d.* a day, and should clothe themselves, *ib.* 941, 942.

*See* also *Labour.*

*Western Australia:*

1. *Evidence as to the Natural Resources of the Colony, and the Importance of Convict Labour.*
2. *Feeling of the Colonists in regard to Convict Labour.*
3. *Number of Convicts which might be sent.*
4. *Cost of the present Convict Establishment.*
5. *Other Evidence generally.*
6. *Continued Introduction of Convicts recommended by the Committee.*

1. *Evidence as to the Natural Resources of the Colony, and the Importance of Convict Labour:*

Numerous and important natural resources of the colony, *Fitzgerald* 171-187. 207-212; *Moore* 513. 537-558. 572-575——Valuable qualities of the encalyptus or native mahogany, *Fitzgerald* 171, 172. 198-201——There is excellent pasture land, and sheep thrive remarkably well, *ib.* 173-176. 209, 210. 212——Excellent agricultural capabilities of the colony, *Fitzgerald* 182. 207-209; *Moore* 538. 552. 558. 571-575: *Yule* 763-765; *Henderson* 1002. 1004.

Unwillingness of settlers once established in Western Australia to leave the colony, *Fitzgerald* 184; *Yule* 815, 816——Good wine already produced in the colony, *Fitzgerald* 186, 187——Necessity generally of convicts for the well-being of the colony, *ib.* 188-192. 209, 210——Decided advantage to the colony through the introduction of convicts, and the consequently large expenditure of Government money, *Fitzgerald* 189. 209, 210; *Moore* 524-529.

The colony is well suited for the reception of convicts, and the labour is very much required, *Moore* 511 *et seq.*——Peculiar adoption of the climate and soil for the growth of wine, *ib.* 552-558——Prospect of mining operations, and the introduction of fresh capital, *Yule* 799, 800——The pasture land is not so extensive as in other Australian colonies, *Henderson* 1002. 1004, 1005——Mineral resources of the colony; probability of gold being found, *ib.* 1002, 1003. 1006, 1007.

2. *Feeling of the Colonists in regard to Convict Labour:*

Strong feeling among the Australian colonists generally against the introduction of convict labour in Western Australia, as well as in the north-eastern districts, *Marsh* 4; *Hodgson* 130, 131. 135-139——Feeling in the colony of Western Australia in favour of the continued introduction of convict labour, though at first many were opposed to it, *Fitzgerald* 188, 189. 195. 204-206; *Moore* 512. 523-529; *Yule* 819, 820; *Henderson* 855. 1015, 1016——

Report, 1856—*continued.*

*WESTERN AUSTRALIA*—continued.

2. *Feeling of the Colonists in regard to Convict Labour*—continued.

1015, 1016——The colonists of Western Australia are in favour of the reception of convicts, but only to a limited extent, *Broun* 594-596. 656, 657——Willingness of the colonists to forget the past offences of the convicts, *Henderson* 990. 992, 993.

3. *Number of Convicts which might be sent:*

Approval of a considerable number being sent out annually, there being ample and increasing means for absorbing their labour, *Fitzgerald* 166, *et seq.*——An annual supply of 300 convicts and 300 free emigrants would be readily absorbed at present, and this number should be increased, *ib.* 190–192. 204–207. 213——About 1,000 convicts might advantageously be sent out annually, as many of them would by degrees, having obtained conditional pardon, become employers of labour, *Broun* 597-601. 609-615. 639-641.

Sufficient labour market at present for from 600 to 800 additional convicts annually, *Yule* 758. 791. 796, 797; *Henderson* 899. 982——If the price of land were reduced, and other encouragements given to settlers, from 800 to 1,000 convicts might advantageously be sent out annually, *Yule* 790. 798——The colony might in fact absorb all those whom the mother country requires to send away, *Henderson* 899. 1009——Expediency of removing all uncertainty in regard to the class or number of convicts hereafter to be sent out, *ib.* 1014.

4. *Cost of the present Convict Establishment:*

Sum of 82,060*l.* voted by Parliament for the support of the convict establishment in the year ending 31 March 1836, *App. p.* 124——Total of 2,000 convicts chargeable, *ib.*

5. *Other Evidence generally:*

Witness has for seven years been governor of Western Australia, *Fitzgerald* 140, 141——Convicts first came out in 1850, *ib.* 142——During witness's governorship the population increased from 4,600 to 12,000, the increase comprising a large number of discharged convicts, *ib.* 143–147——Extent to which the convicts were at liberty to choose their own masters among the settlers, *Fitzgerald* 156, 157; *Moore* 569——Relative position of a convict in the Government depôt and of one in the service of a settler; better position in some respects of the former, *Moore* 576-580——There are now about 2,000 convicts in the colony, *Broun* 589.

Witness has been Comptroller-general of Convicts in Western Australia since 1850; left the colony in February last on sick leave, *Henderson* 844–849. 1001——Took out seventy-five convicts in 1850, being the first sent to the colony, *ib.* 580, 581——Altogether, 3,911 convicts were received, *ib.* 853——About 2,000 remained in charge in February last, *ib.* 854——Estimate of 36,000*l.* or 38,000*l.* as the revenue of the colony for the ensuing year; how composed, *ib.* 968-970.

6. *Continued Introduction of Convicts recommended by the Committee:*

Resolution that among existing colonies that of Western Australia seems to offer the only field for the continuance of the system of transportation, *Rep. p.* iv——Any measures tending to attract free settlers, or invite capital and labour to the colony, would be most desirable, *ib.*

*See* also *Conditional Pardons. District Supervision. Emigration. Employment (Ticket-of-Leave Men). Escape of Convicts. Female Convicts. Female Emigrants. Free Grants of Land. Free Population. Irish Convicts. Labour. Magistrates. Passage Money. Price of Land. Public Works, 3. Rations. Reformation. Selection (Transported Convicts). Tickets of Leave. Wages.*

*Wives and Families of Convicts.* Transmission lately to Western Australia of the wives and families of convicts, on condition that the cost be defrayed out of the convicts' wages, *Broun* 642-646. 650–652——Single instance of a convict's wife and family becoming a temporary charge on the colonists, *Henderson* 952.

## Y.

*York, Cape.* See *Cape York.*

*Yule, Thomas Newte.* (Analysis of his Evidence.)—Has resided in Western Australia in different capacities since 1830; is now police magistrate at Perth; 746–749. 835–837——As a general rule, the convicts in the colony may be said to amalgamate exceedingly well with the free population, from whose taunts they are protected by law, 750. 809——As a class, they have behaved remarkably well, 751–754. 804–808——There is at times a slackness in the demand for convict-labour as regards the settlers, 755. 757.

System of rural convict depôts so as to bring the convicts within reach of the colonists, 755, 756——Sufficient labour-market at present for from 600 to 800 additional convicts annually, 758. 791. 796, 797——Gradual employment of labour by the convicts themselves

Report, 1856—*continued.*

*Yule, Thomas Newte.* (Analysis of his Evidence)—*continued.*

on becoming conditional pardon men, 758——Great importance of a considerable reduction in the price of land as an encouragement to settlers, the upset price of 1 *l.* an acre being much too high, 758–760. 765–768. 814–816. 822. 829–843.

Instead of the assignment principle a system of district supervision is being carried out, 761——Deficiency of female population in the colony, 762——A very large quantity of land might advantageously be brought into cultivation for agricultural purposes, 763–765——Advantage if the convicts were sent out immediately after conviction, and employed upon public works, instead of being sent out as ticket-of-leave men, ready for private employment, 769–790——Those who have been employed at Portland are not any more proficient in consequence, 773.

Before tickets of leave are granted the convicts should be employed in the colony under coercion on public works, &c., 775–778——The present system of allowing the ticket-of-leave men to go from one district to another upon reference to the Comptroller-general, is better than the assignment system, 779——Different public works requiring convict-labour, 780–784. 788——There need be no apprehension of demoralization on account of the men working together in large numbers, 780. 785–787.

If the price of land were reduced, and other encouragements given to settlers, from 800 to 1,000 convicts might advantageously be sent out annually, 790. 798——Irish female emigrants frequently marry ticket-of-leave men; their emigration should be encouraged, 792–795. 802, 803——Prospect of mining operations, and the introduction of fresh capital, 799, 800——Frequent instances of male emigrants and their families, on arriving in Western Australia, leaving it immediately for Melbourne, 801. 825, 826.

The necessary repayment by the convict of the cost of his passage falls ultimately on the settler, 810, 811——Equal wages obtained by the convict as by the free labourer, 812——It is not indispensable that the convict should pay up the whole of his passage-money before he applies to have his wife and family sent out to him, 813——The passage of the wife and family is only partly paid for by the convict, 814——Unwillingness of settlers once established in Western Australia to leave the colony, 815, 816.

Anxiety of the settlers for an extension of convict labour, 819, 820——Necessity of a certain proportion of free emigrants and small capitalists, 821. 841–843——Importance of some stimulus to emigration to Western Australia in order to compete with the greater attractions of the gold-fields of Victoria, 823, 824. 838–843——Occasional disappointment of Government emigrants on arrival in the colony, they having left this country on the impression that they were to be sent to Adelaide or Melbourne, 826–828——Land should be allotted at about 5 *s.*, instead of 1 *l.* per acre, 829–831.